



# City of Sunnyvale

## Memo

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TO: Planning Commission  
FROM: Mary Jeyaprasath, Project Planner  
PROJECT: 800 Carlise Way Well and Water Tank Project (2022-0741) Response to Late Comments on EIR  
AGENDA ITEM: 2  
DATE: March 9, 2026

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This supplemental staff memo addresses questions and comments in letters on the Focused Environmental Impact Report for the project that the City received from four members of the public in the week before the Planning Commission meeting.

### **Introduction**

In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines (Public Resources Code Section 21092.5[a] and CEQA Guidelines Section 15088[b]), the City prepared a Final Environmental Impact Report (EIR) that included written responses to significant environmental issues raised in comments received on the Draft EIR during its public circulation period. The required 45-day public review period for the Draft EIR was from May 15, 2025 to June 30, 2025. The Final EIR and all documents referenced in the Final EIR were published and made available for review to agencies and the public (including individuals who provided comments on the Draft EIR) on February 6, 2026.

Subsequent to the publication of the Final EIR and as of March 5, 2026, three written comment letters have been submitted to the City on the EIR. The purpose of this memorandum is provide written responses to these late comments for consideration by the City's decision-making body prior to the public hearings to consider the certification of the Final EIR. A copy of the written comments from the above individuals pertaining to the adequacy of the EIR are summarized by topic below with responses. Copies of the comment letters are included in Attachment A. Comments regarding the merits of the project or comments suggesting alternative or additional measures outside the purview of CEQA (e.g., notifying residents of pre-construction nesting bird surveys or establishing a residential oversight committee) are not included in the summary below and do not warrant responses under CEQA. However, these concerns may be considered by the decision-making body in evaluating the project.

CEQA Guidelines Section 15088.5 states that a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review, but before the Draft EIR is certified. CEQA Guidelines Section 15088.5 clarifies that new information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. The following examples would

qualify as significant new information that could require recirculation of the Draft EIR:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the 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.

### **Summary of Written Comments and Responses**

Based on a careful review of the comments, the City determined they raised similar, overlapping concerns and questions on the environmental effects of the project within the same topic areas. Therefore, for clarity, readability, and to avoid potential confusion and redundancy associated with numerous responses to individual comments raising the same issue, responses for primary topic areas have been prepared.

### **EIR Preparation and Adequacy**

Comments received pertaining to the preparation and adequacy of the EIR (including its associated technical reports) included:

- Request for independent review
- Typographical-type errors
- Differing and/or unsubstantiated opinions regarding analyses

CEQA allows the lead agency (in this case, the City of Sunnyvale), to choose one of the following arrangements or a combination of them when preparing an EIR:

Preparing the draft EIR directly with its own staff.

- Contracting with another entity, public or private, to prepare the draft EIR.
- Accepting a draft prepared by the applicant, a consultant retained by the applicant, or any other person.
- Executing a third-party contract or Memorandum of Understanding with the applicant to govern the preparation of the EIR by an independent contractor.
- Using a previously prepared EIR.

Before using a draft prepared by another person, the lead agency shall subject the draft to the agency's own review and analysis. The draft EIR must reflect the independent judgment of the lead agency and the lead agency is responsible for the adequacy and objectivity of the draft EIR.

Pursuant to CEQA and the CEQA Guidelines, the City has prepared and reviewed the EIR (including

associated technical reports) and determined that it reflects its independent judgement. CEQA does not require perfection. Typographical type errors, such as the ones noted in the comment letters (e.g., the Mitigation Monitoring and Reporting Program [MMRP] including a heading of “Noise and Vibration” when the following text pertains to noise only), do not render the EIR inadequate. The City has reviewed and confirmed the EIR’s adequacy, objectivity, completeness, and good faith effort at full disclosure. The EIR includes substantial evidence (e.g., facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts) to support the conclusions in the EIR.

Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence (CEQA Guidelines Section 15384). In addition, the standard of review for an EIR under CEQA is not whether a fair argument can be made that the project has a significant effect on the environment based on alternative methods or thresholds, it is whether there is substantial evidence in the record to support the conclusions in the EIR (even though other conclusions might also be reached).

### **Mitigation Monitoring and Reporting Program Purpose and Adequacy**

Comments received pertaining to the MMRP included:

- Adequacy pursuant to CEQA
- Missing environmental resource areas
- Missing documentation regarding compliance with the permitting requirements of other agencies
- Statement regarding future certification of the EIR by City Council

To ensure mitigation measures identified in the EIR are implemented, the City is required to adopt a program for monitoring or reporting for the measures that have been imposed to mitigate or avoid significant environmental effects. Page 1 of the draft MMRP explains that the purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation. The City may choose whether the program will monitor mitigation, report on mitigation, or both. “Reporting” generally consists of a written compliance review. “Monitoring” is generally an ongoing or periodic process of project oversight. The MMRP for the project was prepared pursuant to CEQA and identifies the project’s significant impacts, mitigation measures required to reduce the significant impacts, timeframe and responsibility for implementation, method of compliance, and oversight of implementation.

The MMRP does not include analysis of all the project’s impacts, that is included in the EIR. Impacts that were determined to be less than significant without mitigation are not identified in the MMRP. Furthermore, the project is required to comply with existing laws and regulations. Existing laws and regulations are not mitigation measures. Therefore, existing laws and regulations are not identified in the MMRP.

A copy of the draft MMRP was uploaded to the City’s website with a statement regarding certification of the EIR for the 800 Carlisle Way Well and Water Tank project at the planned City Council hearing date in April 2026. The information in the draft MMRP will be confirmed, finalized, and approved if the EIR is certified and the project is approved.

## Alternatives

Comments received pertaining to project alternatives included:

- Lack of identified alternative sites with commercial zoning
- Adequacy of the alternatives analysis in the EIR
- Requests for additional alternatives

CEQA Guidelines Section 15126.6 states:

An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible.

An off-site location alternative is not required under CEQA. An alternative site may be considered when impacts of the project might be avoided or substantially lessened, and the project proponent can feasibly attain control of the site. Per Section 15126.6 (f) of the CEQA Guidelines, factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site.

Section 7.2 of the Draft EIR outlined the alternatives discussion for the project, and included project alternatives that were considered but rejected and the selected alternatives that received further analysis. Section 7.2.1.6 on page 40 of the Draft EIR discussed the potential for an alternative off-site location; however, this alternative was dismissed as the City determined that the applicant did not have a suitable vacant parcel within the City or service district that would be feasible for development of a new groundwater well, and the City did not own a parcel that could be used in exchange for the project site. As detailed in the first project objective on pages 37 and 38 of the Draft EIR, acquiring new property in the Los Altos Suburban service district is difficult, therefore, constructing the replacement well on a property that Cal Water already owns is preferable. In addition, the former well on-site produced good yields and the site is already connected to Cal Water's existing distribution system infrastructure. Therefore, this alternative was dismissed from further consideration.

A list of properties owned by Cal Water in the City of Sunnyvale is provided below.

- Station 1 (near 130 Crescent Avenue)
- Station 21 (near 1314 South Mary Avenue)
- Station 25 (Crescent Avenue and Michelangelo Drive)
- Station 27 (623 West Fremont Avenue)
- Station 30 (Winstead Terrace and Winstead Court)

- Station 31 (near 1328 Selo Drive)

Except for Station 25, all sites currently contain both wells and water tanks, and none of the sites have sufficient space to construct a new well. Station 25 has an existing well, and adding an additional well to the site is not feasible due to the separation requirements established by the Division of Drinking Water. An EIR can discuss a specific off-site alternative location if the project proponent can feasibly attain control of the site. However, CEQA does not permit speculation or conjecture. It is speculative to assume Cal Water can acquire and develop commercially zoned properties elsewhere that they cannot reasonably acquire.

Although a specific alternative site was not evaluated for the reasons outlined above, Section 7.2.2 of the Draft EIR included several “Indirect Impact” discussions for selected alternatives that discussed the potential environmental impacts that could occur elsewhere if this project was not approved. As detailed on pages 41 and 42 of the Draft EIR, acquisition of an alternative site without an established history of good groundwater yields would require a multi-year search which would likely result in a proposed well project in a similar neighborhood with existing development. Therefore, the impacts discussed in the EIR and Initial Study (Appendix A) may not be entirely avoided because they could occur in a similar residential area elsewhere in the service district and require a similar scale and duration of construction activity to reach groundwater depths with comparable yields to the proposed project site.

In addition, comments suggested evaluating an alternative to the proposed method of discharging the test water that is initially pumped from the well and an alternative that would preserve more existing trees). Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment, the discussion of alternatives shall focus on alternatives to the project which are capable of avoiding or substantially lessening any significant effects (CEQA Guidelines Section 15126.6 (b)). Therefore, since the proposed method of discharging the test water nor the removal of existing trees (including the removal of existing protected trees) do not result in significant impacts, the EIR did not evaluate an alternative disposal method or an alternative that preserved more existing trees.

## Air Quality

Comments received pertaining to air quality impacts included:

- Adequacy of mitigation measure MM AIR-3.1
- Request for real-time air quality monitoring
- Request for independently reviewed Health Risk Assessment – *refer to the response under EIR Preparation and Adequacy*
- Lack of analysis on operational air quality impacts in the MMRP

An Initial Study was completed for the project and determined that impacts to most environmental resources (including air quality) would be less than significant and that an EIR primarily focused on noise should be prepared. The air quality impact discussion for the project was included on pages 35 to 45 of the Initial Study (which is included as Draft EIR Appendix A). The air quality analysis was based on a project-specific Health Risk & Greenhouse Gas Assessment (Initial Study Appendix A) prepared by the City’s technical expert.

## Construction Emissions

For air quality, the project's construction emissions are evaluated for exceedances of the established thresholds for criteria air pollutants and community health risk. As explained on pages 35 to 37 of the Initial Study (Draft EIR Appendix A), the project would not generate construction criteria pollutant emissions exceeding the thresholds established by the Bay Area Air District (Air District). To further reduce the project construction period emissions, the project would implement LUTE DEIR MM 3.5.3, which requires the basic Best Management Practices (BMPs) recommended by the Air District.

The analysis on pages 38 to 41 of the Initial Study (Draft EIR Appendix A) determined that the construction risk impacts from the proposed project without mitigation would exceed the Air District single-source threshold for incremental cancer risk for the maximally exposed individual (MEI), which is the sensitive receptor affected the most by project construction emissions. The MEI is located on the first floor of the adjacent single-family residence to the southeast of the project site, as disclosed on page 38 of the Initial Study and shown on Figure 4.3-1 on page 40 of the Initial Study. To reduce the incremental cancer risk for the MEI during project construction, the project would implement mitigation measures LUTE DEIR MM 3.5.3 and MM AIR-3.1 to limit fugitive dust and diesel particulate matter (DPM) emissions from construction activities on-site. To reduce the incremental cancer risk for the MEI, the project would need to reduce DPM emissions by a minimum of 35 percent. This percent reduction is the performance standard that is required by MM AIR-3.1.

Pursuant to CEQA, the specific details of a mitigation measure may be developed after project approval provided that the City 1) commits itself to the mitigation, 2) adopts specific performance standards the mitigation will achieve, and 3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard (CEQA Guidelines Section 15126.4(a)(1)(B)). The City shall impose MM AIR-3.1 on the project, the project applicant has agreed to implement MM AIR-3.1, and MM AIR-3.1 includes a specific performance standard to be achieved. To provide flexibility for contractors who may not be able to reserve or obtain construction equipment that meets United States Environmental Protection Agency (U.S. EPA) Tier 4 emission standards for all necessary pieces of equipment, MM AIR-3.1 provides two approaches which could be used to achieve the required DPM emissions reduction of 35 percent. These approaches could include a mix of equipment with different emissions standards and/or alternative fuel sources (e.g., electric or natural gas) as long as they would achieve the 35 percent reduction in DPM emissions in comparison to uncontrolled equipment. This would be documented in a construction operations plan that would be subject to review by an air quality expert and approved by the City prior to construction. For these reasons, MM AIR-3.1 is adequate. Additional measures, such as real-time air quality monitoring, are not necessary (and, therefore, cannot be required) to reduce potential impacts to a less than significant level.

### Operational Emissions

Operational emissions for the project associated with vehicles driven by future employees and testing of the emergency generator on-site were modeled in the technical Health Risk & Greenhouse Gas Assessment (Initial Study Appendix A) prepared for the project pursuant to the Air District CEQA Guidelines. As documented in technical Health Risk & Greenhouse Gas Assessment and summarized in the Initial Study (Draft EIR Appendix A), operational criteria pollutant emissions associated with the project were well below the significance thresholds established by the Air District. In addition, the project's operation-related increased cancer risk, annual PM<sub>2.5</sub> concentration, and Hazard Index at the MEI do not exceed the Air District single-source thresholds. Therefore, no mitigation measures are necessary to address potential air quality impacts generated by the proposed emergency generator. Also, refer to the response under Mitigation Monitoring and Reporting Purpose and Adequacy.

Per existing Air District regulation, all engines larger than 50 brake horsepower must be overseen by the Air District, therefore, the project applicant is required to obtain an engine permit from the Air

District for the proposed emergency generator. The permitting process for the emergency generator is separate from the CEQA process; therefore, the permitting process for the emergency generator is not discussed in the EIR. The Air District does not permit any new or modified source that exceeds its health risk thresholds (which are the same thresholds used in the EIR analysis in the Initial Study). After the Air District confirms the new source is deemed to not have any air quality or health risks, the project applicant must obtain an Authority to Construct (Rule 2-1-301) and a Permit to Operate (Rule 2-1-302) from the Air District to install and operate the emergency generator.

## **Biological Resources**

Comments received regarding biological resources pertained to:

- Number of trees (including Heritage trees) to be removed
- Nesting birds, including Cooper's hawks
- Request for residents to be notified about pre-construction nesting bird surveys

There are no Heritage trees located on the project site.<sup>[1]</sup> The project description in both the Draft EIR and Initial Study (Draft EIR Appendix A) state that the proposed project would remove a total of eight trees, including five protected trees and three unprotected trees. Section 4.4 of the Initial Study evaluates potential impacts to biological resources that could occur with implementation of the project. Under CEQA, a project could result in a significant impact if it conflicts with any local policies or ordinances protecting biological resources, such as the City's Municipal Code Chapter 19.94 that outlines procedures and requirements for removing protected trees. As discussed on page 52 of the Initial Study, the project would comply with the City's permitting requirements regarding the removal of protected trees; therefore, the removal of protected trees would not constitute a significant impact as all relevant regulations would be adhered to, and no mitigation would be required to reduce a significant impact.

Subsequent to circulation of the Draft EIR, it was clarified that the project would remove a total of nine trees, including seven protected trees and two unprotected trees. This clarification was disclosed in the Final EIR and incorporated as a text revision to the Draft EIR. The removal of an additional tree did not result in a change in the less than significant impact determination in the Initial Study (Draft EIR Appendix A) nor does it constitute significant new information under CEQA requiring recirculation of the EIR pursuant to CEQA Guidelines Section 15088.5.

Potential impacts to nesting habitat for birds, including migratory birds and raptors (including Cooper's hawks), is discussed on pages 50 to 51 of the Initial Study (Draft EIR Appendix A). The project would implement mitigation measure MM BIO-1.1 which requires avoiding construction activities during the nesting season and conducting preconstruction surveys if construction activities were to take place during nesting season to avoid disturbing active nests that may be affected by project construction. With implementation of this measure, potential impacts to nesting birds on-site would be reduced to a less than significant level. Under CEQA, the City can only require mitigation to reduce significant impacts. A comment requesting adjacent homeowners be notified of pre-construction nesting bird surveys does not reduce a significant environmental impact. Therefore, the City cannot require this request as a mitigation measure under CEQA. As mentioned in the Introduction section of this memo, while this request is outside the purview of CEQA, it may be considered by the decision-making body as part of its project review.

## Noise and Vibration

Comments received pertaining to noise and vibration impacts included:

- Appropriateness of, and alternatives to, the construction noise significance threshold – *also refer to the response under EIR Preparation and Adequacy*
- Noise experienced at night by adjacent receptors
- Request for an alternative to mitigation measure MM NOI-1.2
- Adequacy of mitigation measure MM NOI-1.3
- Request for ongoing noise measurements during drilling
- Lack of analysis regarding vibration impacts in the MMRP – *also refer to the response under Mitigation Monitoring and Reporting Program Purpose and Adequacy*
- Request for additional mitigation measures to reduce construction vibration
- Formula used for modeling potential vibration impacts at adjacent receptors
- Lack of analysis regarding operational noise impacts in the MMRP – *also refer to the response under Mitigation Monitoring and Reporting Program Purpose and Adequacy*

The noise and vibration impact discussion for the project was included on pages 23 to 32 of the Draft EIR. This analysis was based on a project-specific technical Noise Assessment Report (which included a vibration analysis) prepared by the applicant's technical expert and peer reviewed by the City's technical expert who confirmed the appropriate methodology, approach, and analysis was completed. The report and peer review were included as Appendix B to the Draft EIR.

## Construction Noise

The mitigated drilling activity noise levels for adjacent receptors were modeled and disclosed in Appendix B of the Draft EIR and summarized in Table 3.1-4 of the Draft EIR. These measurements were based on the modeled conditions at each property line to determine consistency with the City's established property line significance thresholds. Since the determination of whether there is an impact is based on the noise level at the property line, no measurements or impact analyses of noise levels inside adjacent residence were completed. Noise levels at the exterior of the adjacent residences, including inside the adjacent residences, during project construction would be lower than the modeled noise levels at the property line as the residences are located farther from the construction than the property line.

As explained in the Draft EIR, drilling activities required for the project would result in a significant impact, as the nighttime thresholds for construction noise outside of the allowed construction hours would be exceeded at the property line of two of the nearest residential noise receptors adjacent to the southwestern portion of the project site, even with implementation of mitigation measures MM NOI-1.1 and MM NOI-1.2. These measures mitigate impacts related to the drilling activities by installing acoustical barriers meeting specific performance standards (including location, height, Sound Transmission Class [STC] ratings) identified in MM NOI-1-1 to attenuate the construction (including drilling) noise and providing hotel vouchers to significantly impacted residents. Since the provision of the hotel vouchers does not reduce the noise level to below the threshold at these two residences, the impact is concluded to be significant and unavoidable. There are no other additional feasible mitigation measures available that would clearly lessen the significant unavoidable nighttime noise impact from

drilling activities.

As explained in Response E.4 in the Final EIR, per the requirements of CEQA, mitigation can only be required to reduce potentially significant impacts identified by the environmental analysis. The noise and vibration modeling completed for the project as part of Draft EIR Appendix B (Noise Assessment and Peer Review) identified an exceedance of the established nighttime thresholds for construction noise outside of the allowed construction hours at two of the nearest residential noise receptors adjacent to the southwestern portion of the project site. The modeling showed the construction noise would be below the significance threshold at all other residences (as measured at the nearest property line to the project). For this reason, mitigation measure MM NOI-1.2 (i.e., the provision of hotel vouchers) can only be required for residents of those two receptor locations under CEQA.

In addition, as stated in Response E.4 of the Final EIR, while not required under CEQA, the applicant has agreed to provide the other residents adjacent to the project site with the same opportunity to temporarily relocate during nighttime drilling. The provision of hotel vouchers to the other residents adjacent to the site would be required as part of a Condition of Approval by the City in the development permits for the project.

As noted in the comments received to date, mitigation measures MM NOI-1.1 and MM NOI-1.2 do not require ongoing monitoring of noise levels during drilling activities. Modeling was completed for the Draft EIR (see Draft EIR Appendix B Noise Assessment and Peer Review) which calculated the maximum estimated noise levels that could be expected during drilling activities. Mitigation measure MM NOI-1.3, which was included to mitigate potential exceedances of the daytime noise thresholds during demolition, grading, excavation, trenching, and tank construction activities on-site, does include ongoing noise monitoring at the property boundaries. Ongoing noise monitoring was included in MM NOI-1.3 because the technical modeling for these phases assumed that all construction equipment would be in operation simultaneously during these phases, which is a conservative assumption and results in a conservative (i.e., more impactful) analysis because it is highly unlikely that construction activities would be managed this way on-site. Since various pieces of equipment would be operating at different times and moving around the site, it is difficult to predict the exact noise levels that would be experienced at each property line. Therefore, ongoing, real-time noise monitoring at the property boundaries was included as part of the mitigation measure to ensure that surrounding residents would not be subject to noise levels exceeding the established thresholds during these phases of construction. If noise levels during these construction activities are measured within one dBA of the 80 dBA threshold at surrounding sensitive receptors, then portable acoustic barriers would be installed between the noise generating equipment and the impacted sensitive receptor prior to initiating any additional noise generating construction activities.

### Construction Vibration

Potential vibration impacts associated with the project were evaluated on pages 31 and 32 of the Draft EIR. A more detailed technical analysis regarding estimated vibration generated by construction of the project was included in Draft EIR Appendix B (Noise Assessment and Peer Review). The threshold utilized to determine whether the project would generate significant vibration levels that could damage surrounding structures is outlined on page 19 of the Draft EIR. For reference, a threshold of 0.3 inches per second (ips) is typically utilized to avoid damage to older residential structures (such as the adjacent residences to the project site). However, as explained on page 19 of the Draft EIR, the City utilized a more conservative threshold of 0.25 ips (which is used to avoid damage to historic and sensitive buildings). In addition, for the purposes of this EIR, the City identified an even more restrictive significance threshold for construction activities that occur during nighttime outside of standard construction hours based on the perceptibility of vibration levels of 0.04 ips at surrounding structures.

which is considered to be the perceptible level of vibration.

As discussed on pages 31 and 32 of the Draft EIR and shown in Tables 3.1-7 and 3.1-8, maximum vibration levels at the property line of the nearest receptor would be 0.03 ips during drilling activities and 0.03 ips or lower during the remaining construction activities on-site (including demolition, site preparation, minor grading, construction, and paving). Based on these results, it was determined that the project would result in vibration levels below the thresholds of 0.25 and 0.04 ips and impacts during construction would be less than significant. Therefore, additional measures such as ongoing vibration level monitoring and pre-/post-construction surveys of surrounding residences cannot be required under CEQA as no significant impact was identified that warranted the imposition of mitigation measures and these measures were not included in the MMRP.

A comment suggested using a “safety factor” in the calculations for estimating groundborne vibration to provide a more conservative estimate for potential vibration levels at adjacent properties during construction. This comment was previously provided on the Draft EIR and responded to in the Final EIR in Response H.7. The analysis and conclusions in the Draft EIR are substantiated by a project- and site-specific analysis completed by a technical expert. As stated in the response under EIR Preparation and Adequacy, argument, speculation, and unsubstantiated opinion or narrative do not constitute substantial evidence under CEQA. As stated in Response H.7, per the technical expert who prepared the site-specific analysis:

It is not standard industry practice to include a safety factor when comparing predicted vibration levels against Caltrans vibration criteria. If the estimated vibration levels disclosed in the Draft EIR showed a potential for damage at surrounding structures, then a soil and structure specific assessment that may include a safety factor as part of the calculations could be warranted. Since the estimates disclosed in the Draft EIR are well below the threshold for structural damage, the suggested methodology of applying a safety factor is not appropriate to estimate predicted vibration levels.

### Operational Noise and Vibration

The operational noise for the project was evaluated on pages 30 and 31 of the Draft EIR. As shown in Table 3.1-6 in the Draft EIR, the operation of equipment on-site under normal operating conditions would result in a minor increase in ambient noise level in the area that would be below the City’s identified threshold of five dBA or more for increases in ambient sound levels.

In addition, the noise levels generated by the proposed equipment on-site would be below the 50 dBA nighttime and 60 dBA daytime Sunnyvale Municipal Code (SMC) standards for mechanical equipment (i.e., operational) noise at residential property lines. The proposed equipment on-site would also be below the 60 dBA nighttime and 70 dBA daytime SMC standard for mechanical equipment (i.e., operational) noise at non-residential property lines.

As disclosed in project description in the Draft EIR, the emergency backup generator is proposed to be housed inside an enhanced acoustically rated enclosure. As documented in Draft EIR Appendix B, the proposed enclosure would reduce the noise produced during testing of the emergency backup generator (which would only occur for short periods during daytime hours) and the noise level at surrounding receptors with the addition of this generator noise would remain below the daytime SMC standards for mechanical equipment at residential and nonresidential property lines.

The noise generated from the water being placed in the water tank during project operations is expected to be below the threshold because the tank is fully enclosed, and is constructed of thick steel, and, noise from the water splashing in the tank is not expected to be a significant contributor to noise.

The project would not generate groundborne vibration at surrounding receptors during operation of the proposed well and water tank, therefore, no impact analysis for operational vibration impacts was included in the Draft EIR.

### **Hazards and Hazardous Materials**

Comments received pertaining to hazards and hazardous materials impacts included:

- Lack of hazardous materials section in the MMRP – *also refer to the response under Mitigation Monitoring and Reporting Program Purpose and Adequacy*
- Request for details regarding proposed water treatment chemicals, including types, quantities, storage containment, and applicable regulations
- Lack of Phase II Environmental Site Assessment and soil testing requirements in the MMRP
- Concerns regarding potentially comminuted soil being disturbed during construction

Section 4.9 of the Initial Study (which is included as Draft EIR Appendix A) prepared for the project includes a detailed discussion of the applicable regulatory framework for the project and an impact discussion that evaluates whether the project would result in significant impacts regarding hazards and hazardous materials. Page 91 of the Initial Study (Draft EIR Appendix A) includes the following discussion regarding the chemicals that would be utilized on-site:

The proposed project would include the construction of three new chemical storage enclosures which would store approximately 300 gallons of 12.5 percent sodium hypochlorite and 100 gallons of 19.5 percent ammonium hydroxide. These chemicals would be used to disinfect the pumped groundwater in the newly constructed storage tank, and would be stored within a double containment system in the secured storage sheds. The project would also install an emergency back-up generator on-site. The fuel for this generator would be stored in a double lined tank under the generator and would also utilize a double containment system to reduce the risk of accidental fuel leaks. These hazardous materials would be stored consistent with the regulations listed in SMC Chapter 16.52.

The analysis in the Draft EIR did not identify any significant impact associated with hazards and hazardous materials on-site. Therefore, a section on hazardous materials is not included in the MMRP.

A Phase I Environmental Site Assessment (ESA) (Initial Study Appendix E) was prepared for the project site by the City's technical expert, which noted the historic agricultural use of the site and historic presence of chemical sheds on-site which stored water treatment chemicals for the previous well and water tank infrastructure. The Phase I ESA prepared for the project stated that, "Residual agricultural chemicals, if present, typically are limited to the upper few feet of soil and would not pose a significant threat to groundwater quality at the Site or to the operation of the planned water supply facility." The Phase I ESA also noted that, "No evidence of significant spills was readily apparent. The past chemical use/storage appears unlikely to have significantly impacted soil or groundwater at the Site." Based on these findings, a Phase II ESA or soil sampling report is not necessary to conclude the project would result in less than significant hazards and hazardous materials impacts.

As described on page 91 of the Initial Study (Draft EIR Appendix A), the project is required to test the soil being excavated and off-hauled from the site for proper disposal and, as required by Cal/OSHA, prepare and implement a Health and Safety Plan (HSP) to protect construction worker safety.

## **Geology and Soils (Subsidence)**

Comments received pertaining to geology and soils impacts included:

- Lack of Foundation Differential Settlement Analysis
- Request for ongoing groundwater level monitoring in the MMRP – *also refer to the response under Mitigation Monitoring and Reporting Program Purpose and Adequacy*

The subsidence analysis and less than significant impact conclusion discussed in the appropriate impact discussions in the Initial Study (Draft EIR Appendix A) are based on substantial evidence, including data and analysis from the Santa Clara Valley Water District (Valley Water), who is the agency responsible for permitting new wells in Santa Clara County, and technical expert analysis by EKI Environment & Water, Inc., who prepared the Sustainable Groundwater Management Technical Memorandum (Initial Study Appendix D) for the project.

The findings of this technical memorandum were summarized under the appropriate impact discussions of the Initial Study (which is included as Draft EIR Appendix A). As discussed in the Initial Study:

Between 2014 to 2021, Cal Water's LAS District pumped an average of approximately 3,800 AFY of groundwater from their active well stations, which would account for approximately 3.4 percent of the total amount pumped from the subbasin. During a similar time period (2015 to 2023), the measured amount of subsidence over the Santa Clara Subbasin utilized by Cal Water's LAS District was approximately 0.01 feet, which is an average annual subsidence rate of 0.0015 feet per year. This is lower than the 95 percent certainty interval of accuracy (18 millimeters or 0.06 feet) of these measurements and significantly less than the maximum allowable subsidence rate of 0.01 feet per year detailed in Valley Water's Alternative Groundwater Sustainability Plan. In addition, prior analysis of the subbasin estimated that up to 200,000 AF of water could potentially be pumped in a single year without causing land subsidence.

In addition, as noted on page 99 of the Initial Study:

Between 2010 and 2019, the water budget for the Santa Clara Plain principal aquifer showed an average inflow of 86,000 AFY and an average outflow of 83,000 AFY, which resulted in an average annual increase in storage of approximately 3,000 AFY in the aquifer.

Therefore, Valley Water has been able to increase the inflow of water to the Santa Clara Plain principal aquifer in a manner which prevents overdraft and reduces the risk of subsidence over the subbasin. Page 4 of the Sustainable Groundwater Management Technical Memorandum (Initial Study Appendix D) prepared for the project also notes that the northeast-central area of the subbasin has been more prone to subsidence than the southwest-central portions of the subbasin underlying the project site.

Based on the substantial evidence disclosed in the Initial Study and the associated technical appendices, it was determined that the potential risk of subsidence due to implementation of the project would be less than significant. In addition, Valley Water reviewed the environmental analysis prepared for the project and did not have any specific concerns related to potential subsidence caused by the proposed project.

Subsequent to circulation of the Draft EIR, additional technical documentation was prepared by a secondary technical expert, Luhdorff & Scalmanini Consulting Engineers, who evaluated the project's

potential to induce localized subsidence around the location of the new groundwater well. This additional technical evaluation determined that the new groundwater well would be engineered and constructed to specifically prevent the movement of sand and other materials into the well structure, which would maximize yield, efficiency, sand control, and longevity of the well without inducing localized subsidence.

Because no impacts were identified, no mitigation measures were required to address subsidence or soil instability concerns and none were included in the MMRP for the project.

### **Greenhouse Gas Emissions**

Comments received pertaining to greenhouse gas emissions included:

- Not quantifying the greenhouse gas emissions associated with operation of the project

The Initial Study (Draft EIR Appendix A) prepared for the project quantified the greenhouse gas (GHG) emissions associated with operation of the project, including emissions generated by the periodic testing of the proposed emergency generator. As discussed on page 82 of the Initial Study, for a project to have a less-than-significant impact related to stationary source GHG emissions, it must fall below the bright line threshold of producing 10,000 metric tons of carbon dioxide equivalent (MTCO<sub>2</sub>e) per year. The Greenhouse Gas Assessment (included in Initial Study Appendix A) prepared by the City's technical expert for this project determined that the annual GHG emissions resulting from operation of the project would be approximately 18 MT of CO<sub>2</sub>e in 2025. This is well below the 10,000 MT/yr of CO<sub>2</sub>e threshold, therefore, the project would have a less than significant operational GHG emissions impact under CEQA. Cal Water would be responsible for adhering to any permitting requirements established by applicable regulatory agencies (e.g., California Public Utilities Commission, Bay Area Air District, etc.).

### **Production Test and Development Fluid Discharge**

Comments received pertaining to the discharges associated with the required production tests and developing of drilled fluid included:

- Clarification of the discharge volumes in the Final EIR
- Potential damage or capacity impacts to the sanitary sewer system and storm drain system

The Draft EIR disclosed that the production test that would occur after construction of the new groundwater well would result in the pumping of approximately 1.7 million gallons of raw water from the aquifer, which would then be discharged into the existing storm drain system on Carlisle Way. The City's Environmental Services Department staff confirmed that the existing infrastructure in Carlisle Way would be able to accommodate the initial discharges and a condition of approval was included to require that this discharge only occur during dry weather to ensure the storm drain system would not be overloaded. The City's Environmental Services Department is the expert in determining utility capacity. The Environmental Services Department and the Public Works Department are jointly responsible for constructing, maintaining, and improving City facilities and infrastructure (including the sanitary sewer system and storm drain system).

Subsequent to public circulation of the Draft EIR, the applicant provided clarifications to that anticipated volume, which were disclosed in the Final EIR and incorporated as text revisions to Draft EIR:

After the well is drilled and constructed, the drilling fluid that has intruded the formation and remained within the well structure above the aquifer would be removed, or “developed”. This initial development fluid would be circulated to the surface using airlift techniques to portable tanks before being discharged to the sanitary sewer system. The initial development fluid would be removed until the turbidity levels decrease enough to meet the standards necessary to discharge the fluid to the storm drain system. The total volume of water discharged to the sanitary sewer system would be approximately 1.3 to 1.5 million gallons over a four to five day period. At the conclusion of the airlifting process, the water produced from the well would have suitable turbidity levels to be discharged to the storm drain system. After the initial well development is complete, the final well development would be conducted using a test pump at increasing discharge rates until the rate is approximately 150 percent of the design capacity of the well. This would occur over another four to five day period and result in a total discharge volume of approximately three million gallons to the storm drain system. Testing to determine the final yield of the well would be conducted over the course of two days. The first day of testing would most likely require eight to 10 hours of pumping at varying discharge rates between 75 and 150 percent of the well design capacity. The second day of testing would be conducted at the design discharge capacity of the well for a period of eight to 24 hours. The total discharge volume during this two-day testing period would be up to approximately 2.4 million gallons. No water would be discharged over land.

As stated above, it is anticipated that approximately 1.5 million gallons of water would be discharged to the sanitary sewer system over the course of four to five days, and approximately 5.4 million gallons of water would be discharged to the stormwater system over the course of six to seven days. After the clarifications regarding discharge volume were provided, City Public Works and Environmental Services Department staff reviewed the clarification and the following conditions of approval were included as text revisions in the Final EIR to prevent capacity issues in the sanitary sewer system during discharge of the initial development fluid.

#### Conditions of Approval

- The project applicant shall provide the City’s Public Works Department with a minimum one-week advance notice prior to discharging any fluid into the sanitary sewer system to allow for sufficient maintenance work (e.g., removing potential blockages). The project applicant shall receive confirmation from the City’s Public Works Department that the necessary maintenance has been completed prior to initiating any discharges into the sewer system.
- During the discharge of initial development fluid, the project applicant shall continuously monitor the manhole at the sanitary sewer connection point to ensure that the system does not back-up or start to approach overflow levels. If it is observed that the system is near overflow, the project shall cease further discharges and notify the City’s Public Works Department. Once the issue has been resolved, the City shall notify the applicant in writing that discharge to the system can recommence.

The City confirmed that implementation of these conditions by the project would ensure adequate capacity in the sanitary sewer system during the proposed discharges and that the system would continue to function adequately for surrounding residences. The above conditions of approval are similar to the condition of approval identified on page 131 of the Initial Study to prevent overloading the storm drain system.

The temporary connection to the sanitary sewer system would not include a direct connection to the new groundwater well. As discussed in further detail below, prior to being discharged to the sanitary

sewer system, the initial discharge water would be pumped to temporary holding tanks to allow for the settling of solid materials. The remaining fluid would then be discharged from the temporary holding tanks to the sanitary sewer system. Therefore, there is no potential risk for backflow between the sanitary sewer system and the new groundwater well.

As discussed on pages 98 and 99 in the Initial Study (Draft EIR Appendix A) the drilling process for both the pilot hole and the proposed well would generate a mixture of soil, water, and drilling additive. Prior to discharge, the high turbidity water generated during the initial pumping would be conveyed to two, 21,000-gallon temporary holding tanks to allow for the settling of suspended solids. To prevent this discharged solid material from reaching the sanitary sewer system and stormwater system, the material would be collected in a mud tank, or stockpiled, as appropriate, prior to being disposed off-site, as discussed in project description of the Draft EIR. Page 93 of the Initial Study (Draft EIR Appendix A) outlined the responsibilities of the San Francisco Bay Regional Water Quality Control Board (RWQCB) who issue the National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit (MRP) to regulate stormwater discharges from municipalities and local agencies in Santa Clara County. Under Provision C.15 of the MRP, discharge of water produced during well construction activities, including well development water and pump test discharge water, is allowed, providing that both the water to be discharged and the receiving water body (i.e., the surface water stream into which the storm sewer discharges) are sampled and monitored for pH, turbidity, and contaminants, and record keeping of all best practices are employed. Once the turbidity level and water pH is tested and meets the requirements listed in Provision C.15 of the MRP for discharging into the stormwater system, the water would be discharged into the existing stormwater system in Carlisle Way.

The project is required to comply with all necessary permitting requirements established in the MRP. Existing laws and regulations (such as the MRP) are not mitigation measures, therefore, they are not identified as such in the Draft EIR or MMRP.

### **Miscellaneous**

Comments were received regarding:

- Corporate identify of Cal Water
- Zoning Compatibility
- Statement of Overriding Considerations
- Adjacent Eichler houses
- Potential for combined impacts due to overlapping air quality, noise, and vibration concerns
- Legal Arguments

### **Corporate Identity of Cal Water**

Comments were made about the importance of disclosing Cal Water's corporate identity. As explained on page 2 of the Draft EIR, an EIR is an informational document that assesses potential environmental impacts of a proposed project, as well as identifies mitigation measures and alternatives to the proposed project that could reduce or avoid adverse environmental impacts (CEQA Guidelines 15121(a)). The corporate identity of the project applicant does not change or influence the environmental analysis and conclusions in the EIR. For this reason, this type of information is not included in the EIR.

### **Zoning Compatibility**

The Initial Study (Appendix A of the Draft EIR) includes a discussion of the project's consistency with land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. The analysis included a discussion of the project's consistency with the Sunnyvale Municipal Code (including the permitted uses and development standards of the existing zoning on-site) and concluded less than significant (refer to page 104 of the Initial Study and page 66 of the Final EIR for the complete analysis). In addition, the project site is identified as an active production well in the City's General Plan, as disclosed on page 8 of the Draft EIR.

#### Statement of Overriding Considerations

As explained in the Draft EIR on page 3:

Section 15091(a) of the CEQA Guidelines stipulates that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings. If the lead agency approves a project despite it resulting in significant adverse environmental impacts that cannot be mitigated to a less than significant level, the agency must state the reasons for its action in writing. This Statement of Overriding Considerations must be included in the record of project approval.

If the project is approved, the City shall prepare a Statement of Overriding considerations in accordance with CEQA.

#### Adjacent Eichler Houses

Comments expressed concern regarding impacts to the adjacent Eichler houses. The EIR for the project takes into account the existing environmental conditions, which includes the adjacent residences, when evaluating impacts of the project. The project's impact on the adjacent residents/residences are evaluated throughout the EIR (which includes the Initial Study included as Draft EIR Appendix A), including in the air quality, noise, and land use sections. The concerns identified, including consistency with the zoning, construction noise, and operational noise, were evaluated and impacts were disclosed in the EIR. Responses to the significant environmental concerns related to the adjacent residents/residences are provided in the topical responses on Air Quality, Noise and Vibration, and Zoning Compatibility.

#### Combined Air Quality, Noise, and Vibration Impacts

A similar comment was provided on the Draft EIR regarding the potential for combined impacts due to overlapping air quality, noise and vibration concerns. The following response provided in the Final EIR also addresses the recent comment:

To evaluate potential impacts under CEQA, appropriate thresholds (e.g., maximum decibel level, average daily emissions, etc.) are used by lead agencies to determine when an impact could potentially be considered significant. As noted on page 24 of the Draft EIR and consistent with practice on past projects within Sunnyvale, the City utilizes the construction noise thresholds established by the FTA (80 dBA at surrounding residential properties or 85 dBA at the adjacent park) for construction work that occurs during the City's allowed construction hours. The project's impacts related to noise and vibration are evaluated against these thresholds and disclosed in the Draft EIR on pages 23 to 33, and the project's impacts related to light and air quality/community health risk are disclosed in the Initial Study included as Draft EIR Appendix A on pages 23 to 24 and pages 33 to 44, respectively. These impact determinations are based on substantial evidence (including facts, reasonable assumptions predicated upon facts, and expert

opinion supported by facts). Based on the substantial evidence, these impacts were concluded to be less than significant with the implementation of mitigation, except for nighttime construction noise associated with the drilling of the groundwater well. The above comment does not identify an alternative threshold, substantial evidence supporting the appropriateness of an alternative threshold, or substantial evidence that the project would result in a new significant impact not disclosed in the Draft EIR if the alternative threshold was applied.

### Legal Arguments

Comments were made about the adequacy of the EIR and cited several court cases. The assertions that the EIR is inadequate under CEQA are not substantiated and responses to those assertions have been provided above.

### Conclusion

In preparation of this memorandum, each recent comment letter has been carefully reviewed and the City has considered the concerns raised in each. Based on the City's review of the comments, the comments do not qualify as significant new information under CEQA. Therefore, the standard for requiring recirculation of the Draft EIR has not been met.

[\[1\]](#) City of Sunnyvale. *City of Sunnyvale Heritage Resources Inventory*. September 2024.

26-0192 Added Attachment 12 (posted 20260309)

**From:** ML Stefan <[REDACTED]>

**Sent:** Tuesday, March 3, 2026 10:47 AM

**To:** Mary Jeyaprakash <MJeyaprakash@sunnyvale.ca.gov>; Planning AP <planning@sunnyvale.ca.gov>; Noren Caliva-Lepe <Ncaliva-lepe@sunnyvale.ca.gov>

**Cc:** ML Stefan <[REDACTED]>

**Subject:** Comments on CalWater FEIR attached

**WARNING - This email came from an EXTERNAL source. Confirm the sender and its contents are safe before responding, opening attachment or links.**

Hello

My comments on CalWater's FEIR are in the attached file. CalWater's well and tank construction project will be heard by the Planning Commission on March 9.

My neighbor got an automated email response that Mary will be out of the office till Thursday. So I am including the other email addresses in Mary's automated response. Thank you.

Mei-Ling Stefan  
Sunnyvale resident

**CalWater's FEIR should be rejected.** Reasons: (i) late revelations of significance that escaped EIR scoping and DEIR analysis; (ii) unsatisfactory responses to concerns about inadequate DEIR mitigations.

### 1. Disposal of 6.9+ million gallons of water

It is in the FEIR that a plan is revealed to discharge 1.3 -1.5 million of water containing development fluid into our sewer system in 4 - 5 days [1]. The total amount of water to be discharged prior to well operation has also ballooned from 1.7+ million in the DEIR to 6.9+ million gallons in the FEIR. ***Such a late revelation has bypassed any chance for public discussions, EIR scoping and a DEIR analysis.***

My new concerns are as follows, (a) –(d):

(a) The impact on our sewer system and environmental consequences. Engineering analysis should be required to show that such a copious amount of fluid discharge in a relatively short time will not result in more cracks in the weak points of our aging sewer pipes. The analysis should include the hydro-mechanical effects of the development fluid composition (drilling fluid as well as soil components carried in water) and the various forces acting on the sewer pipes as the fluid flows. And, would the soil components in the development fluid clog the pipes?

In 2020, Sunnyvale was sued and fined for discharging raw sewage into the Bay. The cause was leakage from aging clay sewer pipes into the storm drain system

(Mountain View Voice, <https://www.mv-voice.com/news/2020/03/03/lawsuits-against-mountain-view-and-sunnyvale-allege-sewage-water-leaking-into-creeks-and-bay/>)

(b) What are the regulations, and protocols for even temporarily connecting a drinking water system to a sewer system? How might back diffusion from the sewer system to the well system be avoided? Will microorganisms from the sewer systems have a chance to lodge in the pipe connections and migrate?

(c) How might residents' use of the sewer system be affected? What capacity of the sewer system covering Carlisle Way will be available for residents? Shall we experience problems in disposing our waste water?

(d) Are residents allowed to flush dirt (soil) down our sewage drains at home? Of course no resident would do this even if allowed. We would not want to damage or clog our own drains. But if CalWater is allowed to do so, any negative effects on our public underground infrastructure would not be traceable, and problems can show up mysteriously somewhere away from the CalWater property.

There is no response to one of my questions [3]: "Has CalWater considered the option of discharging water to the East Channel?" Such an alternative to remove large volumes of water in a relatively short time would avoid mishaps in our underground sewer and storm drainage infrastructure. The development fluid can be treated before disposal. Physical processes such as sedimentation or filtration can separate soil particles from the liquid component of the development fluid, if discharge into the East Channel has to meet a turbidity standard. Residual drilling fluid chemicals [4] such as sodium bentonite (a clay) and polyanionic cellulose (derived from natural cellulose) are non-toxic to the environment. Polyacrylamide is often used in applications other than well drilling, including drying the sludge derived from municipal waste water treatment.

In conjunction with the issue of water disposal, the last sentence in Response H.2 should be changed to "...no water would be discharged onto adjacent land on land" to be consistent with Draft EIR Text Revision [1,2]. That is, there will be no land discharge of water even on CalWater's property. Water-logged soil would be prone to liquefaction, which must be avoided for the safety of nearby houses.

[1] FEIR pdf, p.58/98, "Page 11 of the initial study. REVISE the text in the second paragraph in section 3.3.1..."

[2] FEIR pdf p.29/89, "Response H.2"

[3] FEIR pdf p29/89, "Comment H.2"

[4] "Drilling Fluids:...", <https://www.thedriller.com/articles/85892-drilling-fluids-an-integral-part-of-successful-water-well-drilling>

Remark: It is a pity that several million gallons of water will be planned to be discarded, when we know fresh water is a precious resource.

## 2. Noise analysis and mitigation

(a) Real-time noise levels measured, *not hourly averages*, should be used as the basis for the significance threshold of 80 dBA in daytime construction hours. Residents should have access to real-time noise monitoring data.

Specifications about noise measurements should be discussed. I would like to suggest that, if real-time monitoring shows 5 readings of 80 dBA or more within 2 minutes, this should be taken as a sign that the significance threshold is reached.

If CalWater refuses to place adequate sound barriers beforehand during the 6-month construction phase, as indicated in Response H.5, **MM NOI-1.3** in DEIR should clearly state that portable sound barriers will be deployed at a real-time measured threshold of 77 dBA.

**MM NOI-1.3: Ongoing Noise Monitoring and Implementation of Portable Acoustic Barriers:** During demolition, grading, excavation, trenching, and tank construction activities on-site, the project shall conduct ongoing noise monitoring to determine when the use of portable acoustic barriers is required to prevent the exceedance of the applicable 80 dBA threshold as measured at surrounding sensitive receptors. If noise levels during these construction activities is measured within three dBA of the 80 dBA threshold at surrounding sensitive receptors, then portable acoustic barriers shall be installed between the noise generating equipment and the impacted sensitive receptor prior to initiating any additional noise generating construction activities.

DEIR pdf p.11/65

(b) The comments above arise from more concerns after seeing CalWater's responses H.3 and H.5 [5]

(i) Response H.3 indicates that the significance threshold for noise would be based on an hourly noise level. But it is clearly wrong, and dangerous, not to use 80.0 dBA as the maximum limit of noise level in real time. For example, 90 dBA for 29 minutes and 70 dBA for 31 minutes would result in an hourly average less than 80 dBA. To avoid hearing loss, the World Health Organization recommends no more than 40 hours per week of exposure time at 80 dBA, and the safe exposure time rapidly falls with

increasingly noise level, to 4 hours per week for 90 dBA.[6] There will also be confusion as to the start and the end of the one hour.

(ii) Response H.5 refers to MM NOI-1.3 in DEIR, that if noise levels within one dBA of 80 dBA are measured, portable acoustic barriers would be installed. The response should have stated “ within three dBA” of 80 dBA. Anyway, residents should not be expected to wait to see what the hourly average may turn out to be, before steps are taken to protect our hearing.

[5] FEIR pdf p.30-31/98

[6] <https://www.who.int/news-room/questions-and-answers/item/deafness-and-hearing-loss-safe-listening>

### 3. Ground vibration analysis

I stand by my concerns expressed in comment H.7 [7].

Again I quote the professional recommendation [8]:

‘Vibration velocity calculations - and representations of "vibration safety" based on them - should only be viewed as approximate, at best, in the absence of proper validation in the specific locale of interest. When such equations are used in an effort to prevent damage, a "safety factor" of at least 2 should be included in the calculated velocity and corresponding "safe distance".’

The simple, phenomenological formula used does not consider the soil type and structure, or the physics of vibration wave propagation in soil. The measured reference  $PPV_{ref}$  for the same type of equipment can differ according to locale. Even the thresholds for adverse impacts come from statistical analysis, with intrinsic uncertainties. Construction vibration monitoring should be done at critical locations around the construction site and near adjacent buildings; with limits agreed upon prior to construction.[9] (Real-time monitoring results should be available to residents.)

[7] FEIR pdf p.32/98

[8] [https://vibrationdamage.com/vibration\\_regulation.htm#\[15&gsc.tab=0](https://vibrationdamage.com/vibration_regulation.htm#[15&gsc.tab=0)

[9] “ Issues Related to Construction Vibrations in Densely Populated Cities”, American Bar Association, 9/20/2021, [https://www.americanbar.org/groups/construction\\_industry/publications/under\\_construction/2021/summer2021/issues-related-to-construction-vibrations/](https://www.americanbar.org/groups/construction_industry/publications/under_construction/2021/summer2021/issues-related-to-construction-vibrations/)

### 4. Air quality

If diesel engines are used, Tier 4 emission standards should be the norm in **DEIR MM Air 3.1.** and Tier 2 engines fitted to achieve 35% reduction in particulate matter should not be acceptable as a mitigation pathway.

Mitigated Tier 2 diesel engines would be highly inadequate: they have 5-20 times the particulate matter emissions, and 7-13 times gaseous emissions, as those of Tier 4 engines of the same power rating. Tier 4 standards have been in effect since 2015 [10]. Are there good reasons to be laggards?

There are unique circumstances and challenges that should be considered. Our Eichler houses are not well sealed. Diesel exhaust can infiltrate our homes and get trapped. During the 24/7 drilling and days in the extended construction period, we shall have limited opportunities to open our windows to purge the trapped exhaust...A neighbor adjacent to CalWater was once sickened, years ago, by the emission from a diesel generator turned on by the cell phone company on site for a few days; she needed medication to

recover. Any diesel engines to be used should be the cleanest, to help us survive the year-long ordeal of the project.

[10] "Non-road Diesel Engine Certification Tier Chart", <https://ww2.arb.ca.gov/resources/documents/non-road-diesel-engine-certification-tier-chart>

Thank you.

Mei-Ling Stefan

26-0192 Added Attachment 12 (posted 20260309)

**From:** Paul Healy <[REDACTED]>

**Sent:** Thursday, March 5, 2026 11:34 AM

**To:** Mary Jeyaprakash <MJeyaprakash@sunnyvale.ca.gov>; Planning AP <planning@sunnyvale.ca.gov>; Noren Caliva-Lepe <Ncaliva-lepe@sunnyvale.ca.gov>

**Subject:** Comments on 800 Carlisle Well and Tank FEIR attached

**WARNING** - This email came from an EXTERNAL source. Confirm the sender and its contents are safe before responding, opening attachment or links.

My comments on the final eir are attached

Thank you

**TO:** Sunnyvale City Council / Planning Commission

**FROM:** Paul Healy

**DATE:** March 5 2026

**RE:** Formal Objection to the Proposed Final EIR for 800 Carlisle Way Well & Water Tank Project – Inaccuracies and Omissions regarding Operational Noise and Heritage Tree Removal

To the Members of the Planning Commission and City Council,

As a neighbor residing on Coventry Court, next door to the proposed well site, I am writing to formally submit comments regarding the proposed Final Environmental Impact Report for the 800 Carlisle Way Well and Water Tank project. The current EIR is both incomplete and inaccurate, failing to meet the requirements for a full disclosure of environmental impacts. Specifically, the document contains significant omissions regarding operational noise and misleading information concerning the destruction of heritage trees.

## **1. Failure to Evaluate Operational Noise from Aeration**

The EIR's noise evaluation is fundamentally flawed because it omits a primary, constant sound source: the aeration process.

- **The Omission:** Section 3.3.2 of the DEIR (May 2025) acknowledges that groundwater must be aerated to release entrained air by discharging it near the top of the 24-foot steel tank to "splash" and agitate. Despite this, the noise scoping focused exclusively on pump and generator noise.
- **The Impact:** A pump with a 1,200 gallon-per-minute capacity splashing into a vented, uninsulated steel tank creates a significant, high-frequency "industrial waterfall" effect.
- **Request:** The applicant must be required to produce an updated noise study that includes the decibel levels of the aeration process, accounting for the specific pump size, duty cycles, and hours of operation, which remain undisclosed.

## 2. Misleading Disclosure of Heritage Tree Removal

The evolution of the project plans suggests a lack of transparency and "bad faith" reporting regarding the site's biological resources. The failure by applicant to explicitly disclose that commitments made throughout the process by applicant in regards to preservation of mature vegetation "especially the big trees" were no longer operative, is evidence of deception and piecemealing the environmental review.

**Contradictory Statements:** Throughout the process, the applicant claimed that mature vegetation would be preserved to mitigate the visual impact of the tank. In mid-April, the applicant stated that the well location could not be adjusted because it would necessitate "trimming a single tree."

- **The Undisclosed Reality:** It has since been revealed that the plan actually involves the removal of eight trees including **four heritage trees**. This was not disclosed in the original Notice of Preparation (NOP), which only listed four non-protected trees for removal. Also this new impact was not made explicit in the Recirculated NOP despite past and future assurances that existing mature vegetation would be preserved (especially big trees). Finally in the last appearance before the Planning Commission on May 27 2025, slides say 8 trees to be removed, but did not mention that the four tree removal additions are all Heritage trees.
- **Failure of Alternatives:** Because these removals were not disclosed earlier, the EIR fails to evaluate project alternatives that would preserve these heritage trees. The City's Heritage Tree Ordinance requires a level of protection and replacement that has been entirely bypassed in this evaluation.
- **Unclear tree removal plans:** The current site plan includes a north elevation view (the view from coventry court residences) that shows all but perhaps one or two of the existing mature trees being removed along the southern boundary of the property. This is not shown on the arborist report of the site demolition plan.

- **Request:** The applicant must provide consistent, clear documentation of what the tree plan is for this site. A new tree removal plan needs to be generated that preserves all heritage trees, or at least minimizes the heritage tree removals. All alternatives to heritage tree removal should be explored. Perhaps moving the well and tank closer to the park and accessing the drilling site from the park during the two week drilling phase can negate or minimize the need for heritage tree removals. Under no circumstances should the city allow removal of tree #439 (arborists report) as it is protected as a heritage tree, protected as a regular nesting site for raptors, and it crucial to obscuring views of the tank from residences to the south. Also tree #434 (arborists report) should be retained, although misshapen it does provide limited screening of the tank views from the site. Also planting a new tree to replace mature trees is not effective mitigation. It will take decades for new plantings to grow to a size that can effect site views and approach the effectiveness of the vegetation that is proposed for removal.

### **3. Protected Coopers Hawk Nest in Heritage Tree #439**

There is a pair of Cooper's Hawks that annually return to Heritage Tree #439 during nesting season. They appear to reoccupy the same nest every year. This year the hawks were back in their usual nest and observed and recorded the week of 2/22/2026. However this year Cal Water is using the site for staging and assembling materials and heavy equipment creating significant noise and environmental disturbance. (Do they have a permit for this?) Due to this significant disruption of their nest site, the hawks may have abandoned the nest for the time being, but past observation indicates that they often return later in the nesting season if their initial nesting had been disturbed usually by crows. Removing this tree would permanently eliminate this important raptor nesting site.

## 4. Damage to adjacent properties during construction phase

Others have documented the serious concerns of adjacent neighbors regarding the potential of damages to their properties during the extended drilling and construction phase of this project. So I will not repeat that feedback.

I am requesting that the applicant be required to provide a Certificate of Insurance for the project. I request that this COI specifically confirms liability coverage for "adjacent property damage" and "subsidence/lateral support" issues. I also request that all adjacent properties be listed as an **Additional Insured** or a **Certificate Holder** for the duration of this specific project.

## Conclusion

An EIR is intended to be an informational document that informs the public and decision-makers of the full environmental consequences of a project. By omitting the noise of the aeration system and misrepresenting the fate of the site's heritage trees, this EIR fails that standard.

We request that the City Council require a **Revised and Recirculated EIR** that includes a comprehensive noise impact analysis of the aeration system and a legitimate Tree Preservation Plan that explores alternatives to the removal of these four heritage trees, and implente a preservation plan for tree #439

Sincerely,

Paul Healy

# Additional information: Noise

## Noise analysis is flawed

### FAILS TO INCLUDE AERATION NOISE

“Operational noise from the project would be generated primarily by the pump station’s booster pump and pump motor that would be installed on-site. Periodic noise would also be generated by the diesel-powered emergency generator that would be installed.”

800 Carlisle Way Well & Water Tank 30 Draft Environmental Impact Report  
City of Sunnyvale May 2025

The historic tank was a steel tank wrapped in redwood. The sound of water splashing in this tank was often the predominant noise on the site.

### Baseline noise is not representative of this site

In Table 3.1-6: Operational Noise Levels Under Normal Operating Conditions, existing short term ambient noise levels ranging from 48.2 to 58.1 dba simply do not represent the current noise environment at this site, particularly at night. I don’t doubt that the report generators have some complex explanation, but their published numbers for existing noise levels are simply not representative of reality.

**Table 3.1-6: Operational Noise Levels Under Normal Operating Conditions (dBA)**

Noise Receptor	Pump Station Operation Noise Level	Existing Short-Term Ambient Noise Level	Pump Station Operation Plus Ambient Noise	Increase Above Ambient Noise Level
1	33.9	56.4	56.4	0
2	39.0	56.4	56.5	0.1
3	42.0	54.0	54.3	0.3
4	35.8	58.1	58.1	0
5	37.6	48.2	48.6	0.4
6	38.9	48.2	48.7	0.5
7	37.1	48.4	48.7	0.3
8	44.3	48.4	49.8	1.4
9	46.7	48.4	50.6	2.2

Notes: **Bold** text indicates a readily perceptible increase in ambient noise level. The location of each receptor is shown on Figure 3.1-2. Because decibels are logarithmic units, noise levels cannot be added or subtracted by ordinary arithmetic means. For example, if one vehicle produces a noise level of 70 dBA when it passes an observer, two cars passing simultaneously would not produce 140 dB; they would combine to produce 73 dBA.

Source: Behrens and Associates, Inc. *800 Carlisle Way Well & Water Tank Project Noise Assessment Report*. July 24, 2024.

# Additional information: Tree removal

## Tree removal disclosure timeline:

### Original NOP Feb 15 2023

The plans released with the original NOP called for removal of only four trees from the site. None of these are protected or heritage trees.

Applicants' consistent response to questions regarding site aesthetics has been that mature vegetation would block the views of the tank, and that this vegetation would be preserved, especially the large trees. Applicants site demo plan and first commitments on preservation of mature vegetation “especially big trees” forwarded to concerned neighbors by city staff as below:

----@[sunnyvale.ca.gov](mailto:sunnyvale.ca.gov)>

Date: **Wed, Feb 15, 2023** at 3:00 PM

Subject: RE: Questions (800 Carlisle)

- >(1) **Project layout including locations of the proposed replacement well, water tank, pumps, storage, and**
- >vegetation to be maintained ( especially the big trees). Find attached the site plan with necessary information.**
- >The site has 44 total trees; The project proposes to remove four (4) trees and plant five (5) new trees.**

\*Four trees identified on the 2/2023 site demo plan. Not heritage trees

### **3/14/2025 Recirculated NOP**

When released, the revised NOP was explicit that the only change to the project was the change in size of the water tank.

March 14, 2025

NOTICE TO REVIEWERS: Following the publication of the original Notice of Preparation (NOP) on February 3, 2023, changes were made to the project to alter the dimensions of the proposed water tank to be constructed on-site. The **dimensions were changed from 33 feet in diameter and 12 feet in height to 21 feet in diameter and 24 feet in height. This is the only change to the Project Description. All other aspects of the Project Description remain as described in the original NOP.** This recirculated NOP has been prepared to disclose this change in the Project Description. This recirculated NOP will supersede the original NOP; therefore, the City is requesting that individuals and agencies provide comment letters and/or input on the Recirculated NOP.

And assurances continued to be made that existing and mature vegetation would block views of the site/tank. “It is screened by existing tree from all direction” “the proposed location of the tank is surrounded by existing mature trees” “if the tank is moved any closer to the park the existing tree will be required to trim...”

**From:** [Mary Jeyaprakash](#)  
**To:** [REDACTED]  
**Bcc:** [Noren Caliva-Lepe](#)  
**Subject:** RE: Thanks; a question  
**Date:** Monday, April 14, 2025 1:24:00 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

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Hello Mei,

Good afternoon. Thank you for attending the outreach meeting and your follow-up email. The City raised similar concerns with Cal Water before. Please see City's concerns (in blue text) and Cal Water's response below. Here is a link to the proposed Site Plan -

<https://www.sunnyvale.ca.gov/home/showpublisheddocument/4373/638130918937000000>.

Please use this along with Cal Water's response to see the tank location with respect to other amenities onsite.

**City:** a. Provide justification for the location of the tank with respect to the visibility from the nearby single-family homes and from the street. Consider locating the tank along with the Cell Tower, near the park, and away from the single-family homes.

**Cal Water:** a.

The tank was located such that it is screened by existing tree from all direction, minimizing the visibility of the tank. The proposed location of the tank is surrounded by existing mature trees. To provide additional screening, Cal Water is proposing to plan additional trees to provide additional screening. The proposed tank location is closest it can be located to the park. If the tank is moved any closer to the park, the existing tree will be required to trim the existing tree. Few years back, Cal Water installed 9' feet wooden fence with lattice to provide screening to the resident east of the project site. (Opposite of the park location).

## 5/27/2025 Presentation to Planning commission

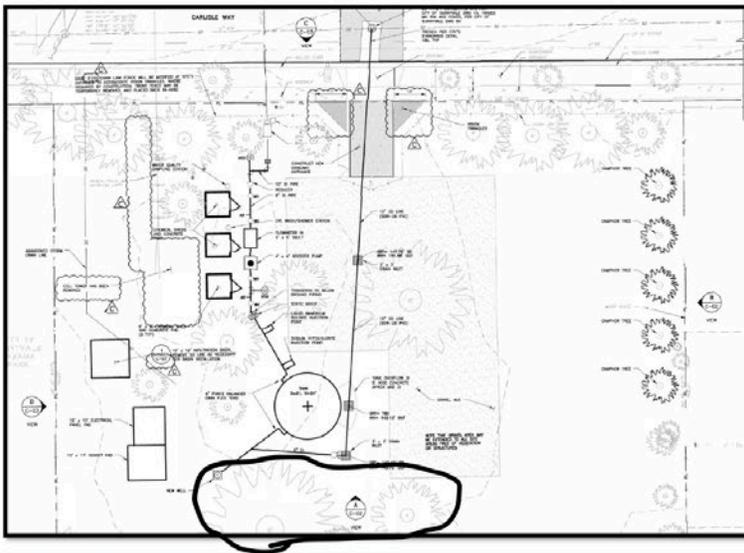
<https://www.sunnyvale.ca.gov/business-and-development/projects-in-sunnyvale/development-projects/carlisle-well-and-water-tank#docaccess-dc4f45743bd0d016a42c501110e4ed2c30b3cf318b5a4d63aaee0db8802c25cf>

Presentation to Planning Commission 5/27/25, comment says 8 trees to be removed (up from the prior 4) **but no**

disclosure that the new tree removals are all heritage trees, critical to blocking views of the new tank. Also note that heritage tree 439 (circled below) now on the to be removed list remains on some of the site drawings. Tree 439 also is crucial to block tank views from the south and southwest.

This tree is also a nesting site for Coopers Hawks

## Proposed Site Plan



- **Groundwater Well:**
  - ◆ Drill 800 - 1000 Feet Below Ground
- **Water Tank:**
  - ◆ 56,000-gal Steel Tank
  - ◆ 24 Feet Tall
- **Chemical Storage Cabinets:**
  - ◆ 11 Feet Tall - Three Cabinets
- **Associated Equipment:**
  - ◆ Booster Pump
  - ◆ Emergency Back-up Generator
- **Tree Preservation:**
  - ◆ Eight Trees Removed (38 Existing)
  - ◆ 12 Trees Replaced



26-0192 Added Attachment 12 (posted 20260309)

**From:** [Paul Healy](#)  
**To:** [Mary Jeyaprakash](#); [Noren Caliva-Lepe](#); [PlanningCommission AP](#)  
**Subject:** Additional Comments on 800 Carlisle Well and Tank FEIR  
**Date:** Friday, March 6, 2026 8:11:45 AM  
**Attachments:** [cal water intro letter.pdf](#)

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**WARNING** - This email came from an EXTERNAL source. Confirm the sender and its contents are safe before responding, opening attachment or links.

Please see additional comments attached

Thank You

**TO:** Sunnyvale City Council / Planning Commission

**FROM:** Paul Healy

**DATE:** March 6, 2026

**RE:** Additional comments on the Proposed Final EIR for 800 Carlisle Way Well & Water Tank Project –

To the Members of the Planning Commission and City Council,

I want to emphasize some information that might otherwise be overlooked in the evaluation of this proposal.

The Applicant, The Los Altos Suburban District of California Water Services, is a part of California Water Services Group a for profit corporation with 2022 revenues of approximately \$850 million.

The Applicant states the max capacity of this well will be 1935 acre feet per year.

Applicant says that of their district's 18,000 service connections 2,000 are located in the city of Sunnyvale.

A google/AI search produces the following information: "Based on typical water consumption rates, a supply of 1,935 acre-feet (AF) per year can support approximately 1,900 to 3,800+ households in a suburban setting."

**So this single well, running at capacity, can support between nearly all and nearly twice the number of Sunnyvale service connections.**

While the Carlisle site alone could potentially meet the needs of all Cal Water's Sunnyvale customers, as of 2011 ***Cal Water had seven additional well sites in Sunnyvale.***

From the 2011 Sunnyvale general plan Cal water had eight well sites in Sunnyvale. All sites located near Fremont Ave. With the exception of the Carlisle site and a site near the orchard heritage park all Cal Water sites in Sunnyvale are within or immediately adjacent to a transportation noise corridor (either Fremont or Hollenbeck)

Applicant states 16 of the 20 well sites they are operating are near their end of service life. Applicant has stated that other well sites will be shut down and that production shifted to the Carlisle site.

Are we closing well sites in Los Altos (arguably a far better location for siting a well) and transferring the burden of extraction and treatment of this Los Altos water to Sunnyvale? Does that make sense?

March 6, 2026

TO: Sunnyvale City Council/Planning Commission

RE: Comments on the Proposed Final EIR for 800 Carlisle Way Well & Water Tank Project

To the Members of the Planning Commission and City Council,

I'm writing to express my concerns about the proposed Well and Water Tank Project on Carlisle Way. I live at [REDACTED], adjacent to the Cal Water property.

First, I understand the need for more resources as Sunnyvale strives to add the housing this area desperately needs. I'm not a NIMBY; I welcome thoughtful and sensible development in my neighborhood.

However, the scope of this project exceeds reasonable expectations for a suburban neighborhood; the site is bordered on three sides by single family homes, and by a neighborhood park used frequently for youth sports. This is not the appropriate site for commercial-grade construction and operation.

The current EIR is both incomplete and inaccurate, failing to meet the requirements for a full disclosure of environmental impacts. The report includes a plethora of data, but it's misleading and contradicts previous statements. I have concerns about the preservation of the trees and bushes on the site, and the impacts of air pollution during construction and operation. The applicant has offered vague "hotel credits" to only two adjacent neighbors—why not all adjacent neighbors? The applicant does not appear to be operating in good faith.

I am especially concerned about potential damage to my property. I recently resurfaced my swimming pool, and the radiant heat in my home has worked without issue since I purchased the home in 2013. I insist the applicant be required to cover the cost of repairs if the (substantial, unmitigated) vibrations cause damage.

I urge the Planning Commission and City Council to reject the FEIR in its current form and require the applicant to address the significant concerns of your constituents.

Respectfully,  
Joni Lindenstruth

[REDACTED]

## FORMAL RESIDENT COMMENT & IMPACT ANALYSIS

800 Carlisle Way Well & Water Tank Project — File # PLN2022-7041, SCH # 2023020080

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Prepared by Ann Bogan, Resident of Sunnyvale, CA on 2/27/2026 for the Planning Commission Public Hearing on 3/9/26

Re: Certification of Final EIR and Use Permit for Cal Water Project.

### SUMMARY

California Water Service Company (Cal Water) proposes to build a replacement water supply well, a new 56,000-gallon steel tank, three chemical storage enclosures, and a permanent diesel-powered emergency generator at 800 Carlisle Way — a site embedded in a quiet, low-density residential neighborhood zoned R-0 with a Single-Story overlay. The site is surrounded by 1962-era Joseph Eichler homes: architecturally significant mid-century modern structures built on unreinforced concrete slab foundations (no rebar, only wire mesh) with copper radiant heating pipes embedded inside those slabs — a combination that makes them uniquely and measurably vulnerable to construction vibration and long-term ground disturbance.

**CORPORATE IDENTITY:** California Water Service Company is a private, investor-owned utility company — not a government entity, not a public agency, and not a municipal water district. It operates as the largest subsidiary of the California Water Service Group (NYSE: CWT), a publicly traded corporation listed on the New York Stock Exchange. Its investors and shareholders are the ultimate financial beneficiaries of this infrastructure investment. This distinction is critical to the Planning Commission's public interest analysis: the environmental and property costs fall on the residential neighborhood immediately surrounding this site — homes that do not receive Cal Water service — while the financial returns flow to a NYSE-listed corporation and its shareholders. Cal Water does serve portions of Sunnyvale, but the homes on Carlisle Way, Kingfisher Way, Coventry Court, and the immediately adjacent streets are not among them.

I present two critical facts that the EIR and MMRP (January 2026) fail to adequately grapple with:

**CRITICAL FACT 1:** The homes immediately surrounding this site are NOT served by Cal Water. Cal Water's service area does include scattered portions of Sunnyvale, but the residential streets immediately adjacent to 800 Carlisle Way — including Coventry Court, Kingfisher Way, Carlisle Way, and the surrounding Fairwood Eichler neighborhood — fall outside Cal Water's Sunnyvale service territory, as confirmed by Cal Water's own district map. The residents who will bear all of the construction disruption, health impacts, long-term noise, vibration, air quality degradation, and property risk receive ZERO benefit from this project. They are not Cal Water customers. They do not drink Cal Water water. They will endure the impacts so that customers elsewhere can receive the benefit.

**CRITICAL FACT 2:** The EIR contains no analysis of alternative sites. Cal Water's Los Altos Suburban District includes 20 active wells, 34 booster pump stations, and 38 storage tanks scattered across Los Altos, Mountain View, Cupertino, and Sunnyvale — yet the EIR does not identify, evaluate, or explain the rejection of a single alternative location. Tellingly, City of Sunnyvale CEQA records confirm that Cal Water owns another Sunnyvale property at 781 South Wolfe Road (APN 211-05-009), a parcel on a major arterial that previously housed the same type of infrastructure (a decommissioned well, booster pump, and chemical storage buildings) before Cal Water divested it for residential redevelopment. The fact that Cal Water recently disposed of a property on a high-traffic commercial corridor while simultaneously seeking approval for this facility in the heart of a protected Eichler residential neighborhood is precisely the kind of siting decision that CEQA's alternatives analysis requirement exists to scrutinize. The EIR provides no analysis or justification for imposing industrial infrastructure on this residential neighborhood when the CEQA process has not evaluated whether less impactful alternative sites are feasible.

These two facts fundamentally reframe the public interest calculation. Under CEQA, a Statement of Overriding Considerations is required when an agency approves a project with significant and unavoidable impacts. The EIR itself acknowledges a significant and unavoidable noise impact (Impact NOI-1). When the Statement of Overriding Considerations is drafted, it must weigh actual community benefit against actual community harm. The community being harmed — the Eichler homeowners immediately surrounding the project site — is not served by Cal Water and derives no benefit whatsoever from this project. While Cal Water does serve other portions of Sunnyvale, the Fairwood neighborhood's Carlisle Way, Kingfisher Way, and Coventry Court streets fall outside its service territory. That is not a "balancing" — it is an uncompensated imposition on a residential neighborhood by a private, investor-owned, NYSE-listed corporation whose shareholders, not the public, capture the financial returns from this infrastructure.

This comment analyzes the Draft MMRP (January 2026) section by section, identifies its gaps, and requests specific remedies before the Planning Commission certifies the Final EIR or grants any permits.

### Summary of MMRP Deficiencies by Impact Category

Impact Area	MMRP Section	What the MMRP Covers	Critical Gap	Adequacy
Air Quality	LUTE MM 3.5.3 MM AIR-3.1	Construction dust & DPM; 35% reduction target	<b>Zero coverage of permanent diesel generator operational emissions</b>	<b>INADEQUATE</b>
Noise	MM NOI-1.1, 1.2, 1.3	Acoustic barriers; hotel vouchers for 2 homes; monitoring triggers	<b>Residual noise impact acknowledged as significant &amp; unavoidable; no long-term operational noise plan</b>	<b>SIGNIFICANT GAP</b>
Vibration / Foundation	NOT ADDRESSED	<b>ENTIRELY ABSENT from MMRP</b>	<b>No PPV analysis, no Eichler-specific study, no monitoring, no pre/post surveys</b>	<b>CRITICAL OMISSION</b>
Geology / Soils	MM GEO-6.1	Paleontological resources only	<b>No soil contamination testing from prior chemical storage; no differential settlement analysis</b>	<b>INCOMPLETE</b>
Hazardous Materials	NOT ADDRESSED	<b>No hazardous materials section in MMRP</b>	<b>3 chemical enclosures proposed; no HMBP; no Phase II ESA; no spill response plan</b>	<b>CRITICAL OMISSION</b>
GHG / Energy	Refers to MM AIR-3.1	Construction-phase only via cross-reference	Permanent diesel generator's ongoing GHG emissions not analyzed for operational phase	<b>INCOMPLETE</b>
Zoning Compliance	NOT IN MMRP	Use permit process handled separately	<b>No demonstration that R-0 compatibility findings can be made; no alternatives analysis for commercial-zone siting</b>	<b>INADEQUATE</b>

## **I. TWO FACTS THAT REFRAME THIS ENTIRE PROJECT**

### **A. The Surrounding Residents Are Not Cal Water Customers**

The Eichler homeowners on Coventry Court, Kingfisher Way, and Carlisle Way do not receive water service from California Water Service Company. While Cal Water does serve scattered portions of Sunnyvale through its Los Altos Suburban District, the residential streets immediately surrounding 800 Carlisle Way fall outside Cal Water's Sunnyvale service territory. These residents are served by the City of Sunnyvale's own municipal water utility, which obtains its water supply from the San Francisco Regional Water System and the Santa Clara Valley Water District. They will never drink a drop of the water this well produces. They will never see their water bills reduced. They will receive no benefit from the drilling, the tank, the chemical enclosures, or the diesel generator.

This is not a minor procedural detail — it is the central equitable fact of this proceeding. When the Planning Commission weighs the project's benefits against its acknowledged significant and unavoidable noise impacts, and against the vibration, air quality, and chemical storage risks not yet adequately mitigated, it must grapple honestly with the following: the population bearing 100% of the harms is not the population receiving any of the benefits.

CEQA's Statement of Overriding Considerations (CEQA Guidelines Section 15093) requires specific findings that a project's benefits outweigh its significant adverse effects. California Water Service Company is not a public agency — it is a private, investor-owned utility company, the largest subsidiary of California Water Service Group (NYSE: CWT), a publicly traded corporation. Its profitability and its shareholders' returns depend on expanding and maintaining its infrastructure. Enriching a NYSE-listed corporation's rate base at the direct and uncompensated expense of an adjacent residential neighborhood that receives no service benefit from the project is not, by any reasonable interpretation, a community benefit that "overrides" significant environmental harm to that community. The public interest calculation cannot substitute Cal Water's shareholder value for the benefit of the residents being harmed.

### **B. Cal Water's Own Standard Practice: Infrastructure Belongs Near Commercial Corridors, Not Residential Neighborhoods**

Across Cal Water's extensive infrastructure network in the Los Altos Suburban District and other Bay Area service territories, pump stations, booster pumps, storage tanks, and well facilities are characteristically sited adjacent to or along commercial corridors, near major roadways, near highway rights-of-way, or in industrial or mixed-use zones. This siting pattern reflects sound planning practice: water infrastructure generates noise (pumps, generator testing, truck deliveries of chemicals), produces diesel exhaust (emergency generators), involves chemical storage, and requires heavy vehicle access during maintenance — all of which are compatible with commercial environments and incompatible with quiet residential neighborhoods.

The existing Sprint/T-Mobile SCADA communication tower at this site is a legacy artifact of the original, pre-2016 well installation. The original installation predates modern residential zoning standards and the current General Plan designation. The fact that a non-functional well existed here previously is not a justification for reactivating and expanding an industrial water facility in an R-0 residential zone — particularly when the DEIR has not analyzed whether alternative sites along nearby commercial corridors could serve the same water supply purpose with substantially reduced residential impacts.

### **The DEIR's Alternatives Analysis Must Be Challenged**

A fundamental CEQA requirement is a good-faith analysis of alternatives that could achieve the project's basic objectives while reducing significant impacts. The EIR's objective of providing water supply reliability for Cal Water's customers in this service area does not necessarily require locating the well at 800 Carlisle Way. The DEIR's alternatives analysis should be scrutinized to determine whether it gave genuine consideration to sites along nearby commercial corridors — such as along El Camino Real, Lawrence Expressway, or commercial strips near Sunnyvale's major arterials — where the noise,

diesel emissions, vibration, and chemical storage impacts would be imposed on commercial uses rather than on 1962 Eichler homes with unreinforced slabs. The Planning Commission should request that staff address the following before certifying the EIR:

- Request that the Final EIR include a substantive alternatives analysis that genuinely evaluates commercially-zoned alternative sites.
- Require Cal Water to demonstrate why this specific residential site was chosen over available commercially-zoned parcels in its service area, with a documented, evidence-based justification.
- Confirm that City planning staff independently verified the alternatives analysis, rather than deferring to Cal Water's preference for a site that minimizes its own land acquisition costs.

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## II. MMRP SECTION-BY-SECTION ANALYSIS: WHAT IS PRESENT AND WHAT IS MISSING

### A. Air Quality (MMRP Pages 2-5: LUTE DEIR MM 3.5.3 and MM AIR-3.1)

The MMRP addresses construction-phase dust and diesel particulate matter emissions through LUTE DEIR MM 3.5.3 (basic BAAQMD BMPs) and MM AIR-3.1 (35% DPM reduction target via Tier 4 equipment or equivalent plans). These measures are welcome, but they are entirely construction-limited. The MMRP contains no air quality mitigation for the project's permanent operational phase.

#### Construction Phase: Gaps

- MM AIR-3.1 contains an escape hatch: Tier 4 equipment is required only "if feasible," with alternatives available if Tier 4 equipment is "not available." There is no requirement to document the infeasibility of Tier 4 equipment before using lesser alternatives. The City should close this gap by requiring advance written documentation of Tier 4 equipment unavailability, verified by the City before any lesser equipment is approved.
- Neither MM 3.5.3 nor MM AIR-3.1 requires real-time ambient air quality monitoring at residential receptor locations during drilling. Requiring Tier 4 equipment is a source-control measure, but it does not verify that actual PM<sub>2.5</sub> concentrations at adjacent homes remain within safe limits during 24/7 drilling operations.
- The cancer risk analysis in the EIR's Health Risk and Greenhouse Gas Assessment (Initial Study Appendix A) must be independently reviewed. The DEIR acknowledges that Impact AIR-3 (sensitive receptor exposure) requires mitigation — meaning the unmitigated risk was significant. Residents request that the City require an independent peer review of the HRA methodology and findings at Cal Water's expense before any building permits are issued.

► **MMRP Reference:** LUTE DEIR MM 3.5.3; MM AIR-3.1

#### Long-Term Operations: Critical Gap in the MMRP

The MMRP is completely silent on air quality impacts from the permanent diesel-powered emergency generator. This is not an oversight — it is a structural omission that leaves a permanent toxic air contaminant source in a residential neighborhood with zero ongoing air quality controls.

- California Air Resources Board (CARB) classifies diesel particulate matter as a toxic air contaminant. Long-term exposure near diesel combustion sources is associated with lung cancer, cardiovascular disease, asthma exacerbation, and premature mortality.
- The Bay Area Air Quality Management District (BAAQMD) requires permits for stationary diesel generators. No evidence in the MMRP or project record indicates that Cal Water has obtained or even applied for the required BAAQMD permit for the permanent generator.
- Under NFPA 110, the mandatory federal standard for emergency standby power systems, diesel generators must be tested monthly for a minimum of 30 continuous minutes under load,

with annual 90-minute extended tests and a 4-hour full-load test every three years. These are legal requirements, not discretionary practices. Each mandatory test run will send diesel exhaust directly into this quiet residential neighborhood — not once, not for a construction season, but permanently, for the 30-50 year life of the facility.

- The MMRP's cross-reference to MM AIR-3.1 for GHG and Energy impacts (Impacts GHG-1, GHG-2, EN-1) carries the construction-phase DPM measures forward but does nothing to address the generator's permanent operational emissions. This is legally inadequate.

### **Requested Actions: Air Quality**

- Require BAAQMD permit review and approval for the stationary diesel generator before the use permit is granted.
- Require Cal Water to analyze alternatives to a diesel generator — including battery backup, propane generator (substantially cleaner emissions), natural gas connection, or grid-redundant power — and demonstrate why these alternatives are infeasible before a diesel generator is approved.
- If diesel is ultimately approved: require a Tier 4 Final engine with DPF and SCR after-treatment; restrict generator test runs to daytime hours and limit frequency; require notification to adjacent residents before each test run.
- Require real-time PM2.5 monitoring at the nearest residential receptor during all generator test runs, with results filed with the City and BAAQMD.

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## **B. Noise and Vibration (MMRP Pages 11-13: MM NOI-1.1, 1.2, 1.3)**

The noise section of the MMRP is the most developed portion of the document. The MMRP title says "Noise and Vibration," but Impact NOI-1 and all three noise mitigation measures (MM NOI-1.1, NOI-1.2, NOI-1.3) address only noise measured in decibels (dBA). Ground-borne vibration — measured in peak particle velocity (PPV) or vibration decibels (VdB) — is a distinct physical phenomenon from airborne noise, and it is entirely absent from the MMRP.

### **B-1. Construction Noise: The "Significant and Unavoidable" Finding Is Unacceptable Here**

Impact NOI-1 is described in the MMRP as: the project would result in generation of a substantial temporary or permanent increase in ambient noise levels (specifically the project construction drilling phase) in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies, EVEN WITH MITIGATION INCORPORATED.

This is the EIR's own language. Even after installing 600 linear feet of 32-foot-high acoustic barriers (MM NOI-1.1), even after offering hotel vouchers to two households (MM NOI-1.2), even after all feasible mitigation is applied — the noise impact remains significant and unavoidable. This is an extraordinary finding for a project in a residential neighborhood, zoned R-0, surrounded by homes whose occupants receive no benefit from the project.

- MM NOI-1.2 offers hotel vouchers at \$300/night/room to only two specifically identified homes (819 and 823 Coventry Court). The EIR used acoustic modeling to identify these two homes as exceeding 50 dBA during nighttime drilling. But homes at slightly greater distances may still experience noise well above their normal nighttime ambient — the EIR's threshold for mitigation (50 dBA) is not the same as the threshold for sleep disturbance or health impact, which the World Health Organization sets at 40 dBA. Residents at other nearby addresses who experience noise well above normal ambient but below 50 dBA receive nothing.
- The hotel voucher mitigation requires residents to vacate their homes for weeks rather than requiring Cal Water to prevent the noise impact. This is the definition of placing private utility business convenience above residential quality of life.

- MM NOI-1.3 requires ongoing noise monitoring during demolition, grading, excavation, trenching, and tank construction — but crucially, it does NOT cover drilling. The most significant noise-generating activity in the entire project (the 24/7 drilling phase) has acoustic barriers (MM NOI-1.1) but no ongoing noise monitoring requirement. If the barriers fail, shift, or are improperly installed, there is no monitoring requirement that would detect the problem.

▶ **MMRP Reference:** *MM NOI-1.1; MM NOI-1.2; MM NOI-1.3*

## **B-2. Ground-Borne Vibration: Completely Absent from the MMRP**

Despite the MMRP section heading reading "Noise and Vibration," the three mitigation measures address only noise. There is no vibration analysis, no vibration threshold, no vibration monitoring requirement, and no reference to vibration in any mitigation measure. This is a critical structural omission, particularly for this site.

The Eichler homes surrounding 800 Carlisle Way have unreinforced concrete slab foundations. Industry experts working with Eichler homes have explicitly noted that "Eichler's original concrete slabs, at least in [the Bay Area], did not have reinforcement — no rebar, only wire" and that land settling, vibration, and ground movement can cause the slab to crack and shear the copper pipes embedded within it. A cracked slab in an Eichler home means:

- Leaking radiant heating pipes requiring jackhammer repairs at costs of \$500-\$1,500 per leak, with full system replacement costing \$20,000-\$40,000 or more.
- Potential slab heave and differential settlement affecting the structural integrity of the entire home.
- Water intrusion beneath the slab causing mold, moisture damage, and potential foundation undermining.
- Damage to domestic water supply pipes also embedded in or routed beneath the slab.

Caltrans' Transportation and Construction Vibration Guidance Manual establishes threshold PPV values for construction vibration: 0.25 in/sec PPV for "historic and old buildings," and 0.3 in/sec PPV for older residential structures. The U.S. Bureau of Mines study classifies vibrations above 0.30 in/sec as "severe" for human occupants, and sets the minimum vibration level to damage older residential structures at 0.50 in/sec PPV — thresholds that are relatively easy to exceed with heavy drilling equipment.

Critically: a 32-foot acoustic wall barrier — however well engineered for airborne noise — does absolutely nothing to attenuate ground-borne vibration, which travels through the soil matrix independent of any surface barrier. The MMRP's acoustic barrier measures (MM NOI-1.1) and the portable acoustic barriers (MM NOI-1.3) protect against noise only. They offer zero protection for the Eichler slabs.

## **B-3. Long-Term Operational Noise and Vibration**

The MMRP is entirely focused on construction-phase noise. The permanent operational noise from well pumps, booster pumps, mechanical equipment, SCADA systems, and generator testing is not addressed. Sunnyvale's noise ordinance sets ambient noise standards for residential zones that apply 24 hours a day, 365 days a year — not just during construction. The MMRP provides no mechanism for ensuring ongoing operational compliance.

- Water pump systems generate continuous low-frequency noise and vibration. This is distinct from the intermittent construction noise analyzed in the MMRP. Low-frequency operational noise is particularly intrusive in quiet residential settings because it penetrates building envelopes and is difficult to mask or attenuate.
- Pump vibration can be transmitted through utility connections, soil, and structural paths to adjacent foundations — and long-term cyclic loading of unreinforced concrete slabs may cause fatigue cracking over time.

### **Requested Actions: Noise and Vibration**

- Require a qualified geotechnical/structural engineer to prepare a site-specific Peak Particle Velocity (PPV) analysis of the proposed drilling equipment, using actual site soil conditions, calculating predicted PPV at each adjacent Eichler home's foundation. This analysis must be peer-reviewed and completed before any permits are issued.
- Establish specific, enforceable PPV thresholds at adjacent property lines, calibrated to the Caltrans standard for "historic and old buildings" (0.25 in/sec) given the unreinforced, no-rebar nature of Eichler slabs.
- Require real-time vibration monitoring (accelerometer-based PPV monitoring) at adjacent property lines during all drilling and ground-disturbing activities, with automatic work stoppages if thresholds are approached.
- Require MM NOI-1.3 monitoring to be extended to cover the drilling phase, not just demolition, grading, excavation, trenching, and tank construction.
- Require pre-construction foundation condition surveys of all properties within 200 feet, conducted by an independent structural engineer at Cal Water's expense, with photographic documentation and structural assessments.
- Require post-construction foundation inspections of all properties within 200 feet, at Cal Water's expense, with a binding, legally enforceable obligation on Cal Water to fund remediation of any damage attributable to project construction.
- Require acoustic modeling of all permanent operational equipment (pumps, generator, SCADA) demonstrating compliance with Sunnyvale's residential noise ordinance at all property lines, before any operations begin.
- Require an operational vibration assessment from the permanent pump installation, with vibration isolation mounting specifications.

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### **C. Biological Resources (MMRP Pages 5-6: MM BIO-1.1)**

The nesting bird survey and buffer zone requirements in MM BIO-1.1 are appropriate. Note that the 14-day and 30-day survey windows are tied to construction scheduling — and given the potential for construction schedule changes, I request that the City require written notification to adjacent homeowners when any pre-construction biological survey is completed and when construction will begin, with at least 10 business days advance notice.

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### **D. Geology and Soils (MMRP Pages 9-10: MM GEO-6.1)**

MM GEO-6.1 addresses paleontological resources only — requiring work stoppage and paleontologist response if fossils or unique geological features are found. This is appropriate but it does not address the most pressing geology and soils concern for adjacent homeowners.

#### **Missing: Soil Contamination Analysis from Prior Chemical Storage**

The existing site has housed chemical storage buildings associated with prior well operations that were decommissioned in 2016. The project record includes a Phase I Environmental Site Assessment (Initial Study Appendix E), but a Phase I ESA is a records review and site observation exercise only — it does not involve soil or groundwater sampling. A Phase I ESA by definition cannot determine whether soil contamination is actually present.

- No Phase II Environmental Site Assessment (involving actual soil sampling and laboratory analysis) appears to have been completed for this site before the DEIR was published.

- The demolition of the existing chemical storage building (listed in the project description) will involve ground disturbance in an area that previously housed water treatment chemicals. Any contaminated soil disturbed during demolition could be released as dust or through contact.
- The MMRP contains no soil testing requirement during or after demolition of the chemical storage building.

### **Missing: Foundation Differential Settlement Analysis**

The combination of drilling to 800-1,000 feet depth and ongoing groundwater extraction could alter local soil conditions and water table levels. The Santa Clara Valley has significant clay-bearing soils that are subject to expansion and contraction with moisture changes. Differential settlement in such soils directly threatens unreinforced concrete slab foundations.

- The Geotechnical Feasibility Study (Initial Study Appendix C) should be re-examined to determine whether it includes lot-scale differential settlement analysis for adjacent Eichler home foundations.
- The MMRP should include ongoing groundwater level monitoring in the immediate vicinity with specified trigger thresholds for investigation.

▶ **MMRP Reference:** *MM GEO-6.1*

### **Requested Actions: Geology and Soils**

- Require a Phase II ESA with soil sampling before any demolition or ground disturbance at the chemical storage building location.
- Require a site-specific differential settlement analysis for adjacent Eichler home foundations under the proposed pumping regime, prepared by a licensed geotechnical engineer.
- Require soil testing during demolition for contamination, with results submitted to DTSC and the Regional Water Quality Control Board.

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## **E. Greenhouse Gas Emissions and Energy (MMRP Page 10-11: Refers to MM 3.5.3 and MM AIR-3.1)**

The MMRP addresses GHG and energy impacts (Impacts GHG-1, GHG-2, EN-1) solely by cross-reference to the construction-phase air quality mitigation measures. This is analytically inadequate.

- A permanent diesel emergency generator operated monthly for testing and maintenance will produce ongoing GHG emissions — CO<sub>2</sub>, methane, and NO<sub>x</sub> (a GHG precursor) — for the decades-long life of the facility. These operational GHG emissions are not quantified anywhere in the MMRP.
- Cal Water, as a regulated California utility, is subject to the California Public Utilities Commission's Greenhouse Gas Emission Reduction Rulemaking. The MMRP should demonstrate that the generator specification and operations plan are consistent with Cal Water's CPUC GHG reduction commitments.
- CARB and the Bay Area Air District both recommend transitioning backup power systems from diesel to cleaner alternatives (batteries, fuel cells, natural gas). A permanent diesel generator in a residential zone is inconsistent with the region's air quality improvement trajectory.

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## **III. CRITICAL MMRP OMISSION: HAZARDOUS MATERIALS AND CHEMICAL STORAGE**

The MMRP contains no hazardous materials section whatsoever. This is a significant structural omission. The project proposes to permanently install three chemical storage enclosures in an R-0

residential zone. The nature, quantities, and safety protocols for these chemicals are not disclosed in the MMRP.

### **Chemical Storage in a Residential Zone**

Water treatment systems typically use chemicals including: chlorine gas or sodium hypochlorite (for disinfection), hydrofluorosilicic acid or sodium fluoride (fluoridation), orthophosphoric acid or sodium hydroxide (corrosion control and pH adjustment), and other treatment compounds. Many of these are classified as hazardous materials under California Health and Safety Code Section 25500 et seq. (the California Accidental Release Prevention / CalARP program).

- Cal Water is required to prepare and file a Hazardous Materials Business Plan (HMBP) with the local Certified Unified Program Agency (CUPA) — the City of Sunnyvale Department of Public Safety — for any facility storing chemicals above specified threshold quantities. The MMRP does not mention the HMBP requirement.
- If threshold quantities are met, Cal Water may also be subject to the CalARP / Risk Management Plan (RMP) requirements. The MMRP does not address this.
- Secondary containment requirements for chemical storage must be engineered to contain the maximum stored volume plus a reasonable storm event without release to the environment. No specifications are provided.
- Adjacent homeowners and the City should know what chemicals are being stored permanently within a few dozen feet of their homes, their children, and their gardens.

### **Production Test Discharge of 2 Million+ Gallons**

The project description states that the 24-hour production test will discharge approximately two million gallons of raw groundwater into the storm drain system, plus an additional 18,000 gallons during a separate 15-minute test. Raw groundwater from wells of 800-1,000 feet depth in Santa Clara Valley can contain naturally occurring arsenic, manganese, naturally occurring radioactive materials (NORM), elevated total dissolved solids, and other contaminants at levels that may not be suitable for direct storm drain discharge.

- No water quality testing requirement for the production test discharge is included in the MMRP.
- Discharging 2 million gallons into the storm drain system in a residential neighborhood over 24 hours may cause localized flooding and soil saturation, particularly near Eichler slab foundations where subslab moisture changes can affect the embedded copper pipes.
- The Regional Water Quality Control Board (RWQCB) may require notification or a discharge permit for this volume. No evidence of RWQCB consultation appears in the project record.

### **Requested Actions: Hazardous Materials**

- Require Cal Water to submit a complete Hazardous Materials Business Plan to the Sunnyvale Department of Public Safety and make it publicly available before any construction permits are issued.
- Require full disclosure of all proposed water treatment chemicals, quantities, and SDS information.
- Require secondary containment design specifications for all three chemical enclosures.
- Require pre-discharge water quality testing of the production test water, with results filed with the RWQCB and the City before any discharge occurs.
- Require a spill response plan specific to the residential setting, including protocols for residential notification if a chemical release occurs.

## IV. ZONING COMPATIBILITY: THE R-0 STANDARD AND THE USE PERMIT BURDEN

The project site is zoned R-0 (Low Density Residential) with a Single-Story (S) overlay, and is designated Low Density Residential (RLO) in the Sunnyvale General Plan. This is confirmed by the City of Sunnyvale's own project page for this development ([sunnyvale.ca.gov/business-and-development/projects-in-sunnyvale/development-projects/carlisle-well-and-water-tank](http://sunnyvale.ca.gov/business-and-development/projects-in-sunnyvale/development-projects/carlisle-well-and-water-tank)), which states in its Background section: "The project site is zoned Low Density Residential (R-0) combined with Single Story (S) overlay district." This is the most restrictive residential zoning category in Sunnyvale. A use permit is required to operate a water extraction and distribution facility in this zone — and the applicant bears the burden of demonstrating compatibility with the zone's residential character.

### The Use Permit Standard Cannot Be Met Merely by Citing Public Benefit

Cal Water will argue that water supply infrastructure serves a public benefit that justifies its presence in any zone. This argument conflates the question of whether water infrastructure serves a public purpose with the question of whether this particular project is compatible with this particular residential zone. CEQA and the Sunnyvale Municipal Code require more than a finding of public purpose — they require a finding of compatibility.

- A 17-foot steel tank in a neighborhood of single-story Eichler homes with 8-10 foot plate heights is a visual incompatibility with the Single-Story overlay zone, which was specifically designed to protect neighborhood scale and character.
- Permanent industrial equipment (pumps, generators, chemical enclosures) operating in a residential zone produces the kinds of noise, emissions, and visual impacts that the R-0 designation was enacted to prevent.
- The Single-Story (S) overlay was not simply a height restriction — it reflected the community's deliberate choice to preserve the low-profile, mid-century modern architectural character of the Eichler neighborhood. A 17-foot steel tank and industrial equipment do not preserve that character.

### The MMRP's Preface Contains a Legal Error

The MMRP Preface states: "On April 7, 2026, the City Council certified the Environmental Impact Report for the 800 Carlisle Way Well and Water Tank project." This is a future date presented as though it has already occurred. As of the date of this comment (February 2026), the EIR has not been certified. This error appears to reflect document preparation in anticipation of certification rather than after certification — and may indicate that the MMRP was drafted with a predetermined outcome in mind rather than as a genuine environmental protection document.

### Requested Actions: Zoning

- Require Cal Water to submit a zoning compliance matrix addressing every applicable provision of the Sunnyvale Municipal Code's R-0 and Single-Story overlay requirements.
- Require independent planning staff verification that all use permit findings can be made, with written analysis, before the item is placed on the Commission agenda for action.
- Require the MMRP Preface to be corrected to remove the reference to a future Commission action as though it has occurred.
- Require the Final EIR to include a genuine alternatives analysis evaluating commercially-zoned sites that could serve the same water supply purpose with substantially reduced impacts on residential properties.

## V. STATEMENT OF OVERRIDING CONSIDERATIONS: THE REQUIRED LEGAL STANDARD

Under CEQA Guidelines Section 15093, when a public agency approves a project with significant and unavoidable impacts, it must adopt a Statement of Overriding Considerations (SOC). The SOC must set forth "specific reasons" why the agency finds that the project's benefits override the significant adverse impacts.

The EIR for this project acknowledges one significant and unavoidable impact: Impact NOI-1 (construction noise, specifically during drilling). The Planning Commission must adopt a SOC that specifically justifies why this significant unavoidable noise impact — on a quiet residential neighborhood, affecting homes that receive no water service benefit from Cal Water — is acceptable.

### The SOC Cannot Be Formulaic

Courts have struck down Statements of Overriding Considerations that are vague, conclusory, or simply assert that the project's benefits are "significant" without specifically addressing the adverse impacts being overridden. The SOC must be particularized to the specific community affected by the specific impact.

For this project, the SOC must honestly answer the following questions:

- What specific benefit do the residents of Coventry Court, Kingfisher Way, Carlisle Way, and the surrounding Fairwood neighborhood actually receive from this project, given that these streets fall outside Cal Water's Sunnyvale service territory and these residents are not Cal Water customers?
- What is the quantified, specific economic or social value of having this additional well in this specific location, compared to the quantified harm of construction noise on a residential neighborhood of 60-year-old Eichler homes?
- Has the City fully weighed the fairness of imposing significant, unavoidable impacts on a residential neighborhood that receives no water service benefit from this project — and whether that imposition is consistent with the City's own obligations to the residents it serves?
- Has the Planning Commission adequately considered whether, as a matter of policy, Sunnyvale should allow private water utilities to site industrial infrastructure in R-0 residential zones when commercial-zone alternatives exist?

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## VI. PROCESS REQUESTS: WHAT I ASK THE COUNCIL TO REQUIRE

### Before Any Certification or Permits Are Granted

- Third-party PPV analysis by an independent geotechnical/structural engineer, at Cal Water's expense, with proposed thresholds and monitoring plan submitted for City approval.
- Independent peer review of the EIR's health risk assessment for DPM (Initial Study Appendix A), at Cal Water's expense.
- Phase II Environmental Site Assessment with soil sampling at the chemical storage building location, results submitted to DTSC and RWQCB.
- Complete Hazardous Materials Business Plan submitted to Sunnyvale Department of Public Safety, made publicly available.
- Genuine alternatives analysis for commercially-zoned sites incorporated into the Final EIR.
- BAAQMD permit application submitted for the permanent diesel generator, with BAAQMD review completed before any use permit is granted.

- Operational noise modeling for all permanent equipment demonstrating compliance with Sunnyvale residential noise standards at all property lines.

### **During Construction**

- Real-time PPV monitoring at adjacent property lines during all drilling and ground-disturbing activities, with daily reports to the City.
- Real-time PM2.5 monitoring at nearest residential receptor during drilling, with reports to BAAQMD.
- 72 hours advance written notice to all residents within 300 feet before commencement of nighttime drilling.
- Extension of MM NOI-1.3 noise monitoring to cover the drilling phase, not just the other construction activities.
- Pre-construction foundation condition surveys of all properties within 200 feet (independent structural engineer, at Cal Water's expense).
- All MMRP monitoring reports filed with the City on a weekly basis and made publicly available within 48 hours.

### **After Construction / Permanently**

- Post-construction foundation inspections of all properties within 200 feet (independent structural engineer, at Cal Water's expense).
- Binding legal mechanism (escrow, insurance policy, or recorded covenant) ensuring Cal Water's liability for any construction-related damage to adjacent Eichler homes, including slab cracks, radiant heating pipe failures, and differential settlement.
- Annual operational noise measurement at property lines with results filed with the City.
- Advance resident notification before each generator test run.
- Annual inspection of all chemical storage enclosures and secondary containment by the Sunnyvale Department of Public Safety, with reports publicly available.

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## **VII. WHY EICHLER HOMES ARE UNIQUELY AND SEVERELY IMPACTED BY THIS PROJECT**

### **A. The Fairwood Tract: Sunnyvale's Designated Eichler Neighborhood**

The homes immediately surrounding 800 Carlisle Way are part of the Fairwood Eichler tract — approximately 215 homes built between 1961 and 1962, expressly shown on the neighborhood maps in Appendix A of the City's Eichler Design Guidelines. Sunnyvale is historically the "home of the Eichler" — the very first Eichler home was built in this city — and the City formally adopted Eichler Design Guidelines on July 28, 2009 (City of Sunnyvale, Eichler Design Guidelines, available at [sunnyvale.ca.gov/business-and-development/planning-and-building/permit-center/design-guidelines-and-standards](http://sunnyvale.ca.gov/business-and-development/planning-and-building/permit-center/design-guidelines-and-standards)). The guidelines replace the City's Single Family Design Guidelines for all homes within Eichler neighborhoods and are used by planning staff and the Planning Commission in reviewing all discretionary approvals and permits. They apply to exterior changes to original Eichler homes and to all other homes within the Eichler neighborhood boundaries — covering new house construction, additions of 20% or more floor area, second story components, and any exterior modification that significantly changes the appearance of the home. The guidelines' stated intent is to: (1) Preserve the unique character of Eichler homes and their neighborhood, and (2) Assist property owners in designing new homes, expansions, and other exterior changes to respect and complement the scale and character of existing Eichler homes and their surrounding neighborhoods.

The guidelines formally identify the key architectural characteristics of Eichler homes that the City is committed to preserving. Among the defining characteristics listed in the guidelines are: slab-on-grade construction, radiant floor heating, post and beam construction, interior/exterior floor plan relationships with large areas of glass in private yard areas, and interior and entry atriums. The guidelines also explicitly acknowledge single-pane windows as a special challenge of Eichler homes, noting that they are not energy efficient and that homeowners often seek to upgrade them. The guidelines provide specific guidance on window replacement (Section 3.5.2) to ensure that any new windows maintain narrow frames and organized glass panels consistent with the Eichler style. The City's design review authority is triggered for any change that significantly alters the home's appearance — meaning residents cannot freely remove or replace architectural features without city oversight.

The guidelines themselves explicitly acknowledge that "Eichler homes, because of their open floor plans and large expanses of glass, are especially vulnerable to privacy intrusions from adjacent two-story tall homes" (City of Sunnyvale Eichler Design Guidelines, adopted July 28, 2009, p. 5). The same vulnerability — open floor plans and large areas of glass facing adjacent properties — is directly relevant here: the Cal Water project at 800 Carlisle Way will place industrial noise, vibration, diesel exhaust, and a 17-foot steel tank immediately adjacent to those glass walls. A 17-foot steel water tank and a permanent diesel generator directly contradict every policy objective that motivated both the rezoning and the guidelines.

## **B. Glass Walls, No Insulation: The Noise Is Inescapable Inside These Homes**

Eichler homes are defined by their indoor-outdoor design philosophy. A key characteristic identified in the City's own Eichler Design Guidelines is "interior/exterior floor plan relationships with large areas of glass in private yard areas" — the rear walls that face the Cal Water property are predominantly floor-to-ceiling glass. The guidelines themselves acknowledge that original Eichler homes were built with single-pane windows (Section 2, Special Challenges: "Single pane windows along with limited roof and wall insulation often lead today's homeowners to undertake renovations"). Many homes in the neighborhood still retain their original single-pane glazing, while others have been upgraded to double-pane per the guidelines' window replacement guidance (Section 3.5.2).

What the official guidelines make clear — and what is legally significant here — is that the City exercises design review authority over any exterior changes to these homes. Any attempt by a homeowner to replace glass walls with more acoustically protective solid panels would require design review under the guidelines and would be scrutinized for compatibility with the Eichler style. The guidelines explicitly discourage changes that would alter the characteristic panel-and-glass organization of the facade. This means residents are not free to simply wall off their exposure to the Cal Water site: city policy constrains their ability to do so. The acoustic vulnerability created by large areas of glass is therefore not a condition residents can easily remedy — it is a permanent characteristic of these homes that the EIR was obligated to analyze and that the MMRP must address.

The acoustic implications are severe and the EIR does not analyze them at all:

- A standard double-pane insulated glass window provides approximately 25-35 dB of sound attenuation. Original single-pane glass provides approximately 18-22 dB. Interior noise levels inside a home with single-pane glass walls will therefore be only 18-22 dB lower than exterior measured levels.
- The MMRP's 80 dBA outdoor threshold (MM NOI-1.3) translates to approximately 58-62 dBA interior levels through single-pane glass — well above the 35 dBA interior ambient that is standard for undisturbed residential sleep, and above the 45 dBA level that is associated with sleep disturbance.
- The EIR's significant and unavoidable noise finding (Impact NOI-1) was modeled using exterior noise levels. The EIR contains no analysis of interior noise levels inside Eichler homes with floor-to-ceiling single-pane glass walls. This is a fundamental analytical gap.
- Acoustic barriers attenuate line-of-sight sound transmission. Residents of Coventry Court and Carlisle Way with glass rear walls facing the site will receive drill noise around, over, and

through barrier edges. The EIR's acoustic modeling must be reviewed to determine whether it accounted for the non-standard acoustic vulnerability of Eichler glass wall construction.

### **C. The Indoor-Outdoor Living Standard Applies to Yards, Patios, and Open Spaces**

Eichler homes were not designed for indoor isolation. The City's own guidelines document lists "interior/exterior floor plan relationships with large areas of glass in private yard areas" as a defining Eichler building characteristic — the integration of living space with the garden and outdoor environment is central to the Eichler design philosophy and to the significant real estate premium these homes command. Residents routinely use patios, gardens, and outdoor living areas as functional extensions of their interior living space, particularly in the mild Silicon Valley climate.

The project will make outdoor living in adjacent yards impossible for the duration of drilling. Two weeks of continuous 24-hour drilling will eliminate the use of these outdoor living spaces entirely. The hotel voucher mitigation (MM NOI-1.2) recognizes that the impact is so severe residents must vacate — but it offers this relief only to two households (819 and 823 Coventry Court), and only for indoor sleeping. It does not compensate for the weeks of lost outdoor use, lost indoor quiet, and disrupted quality of life for the broader neighborhood.

Furthermore, Sunnyvale's noise ordinance (Municipal Code Section 19.42) establishes that operational noise from powered equipment adjacent to residential uses must not exceed 50 dBA at the property line during nighttime and 60 dBA during daytime. These are the outdoor property-line limits. For residents of Eichler homes with single-pane glass rear walls, the effective interior threshold is far more restrictive than a typical home. The EIR never analyzes this.

### **D. Residents Live and Work in These Homes: The Residential Noise Standard Applies Around the Clock**

A substantial portion of residents in this neighborhood work from home — a pattern that was already significant before 2020 and has become the norm for many local professionals in the neighborhood. Cal Water may attempt to argue that construction noise during "permitted hours" is acceptable because residents can go to an office. That argument fails in two ways.

First, Sunnyvale Municipal Code Section 19.42 establishes residential noise limits as operational standards that apply to the residential zone — not as standards calibrated to whether individual residents happen to be at work. A home is a home 24 hours a day. The noise ordinance applies to any point on the property line of an adjacent single-family residential use, full stop.

Second, Sunnyvale's own definition of home occupations (Municipal Code Section 19.42) specifically recognizes that residents operate businesses from their homes, subject to the condition that the use "shall not generate external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors." The two-week continuous 24-hour drilling operation does not merely violate this standard by a small margin — it obliterates it.

- Professional activities that require concentration — software engineering, legal work, medical telehealth, virtual client meetings — will be impossible during drilling. No hotel voucher compensates for lost workdays or client relationships damaged by construction noise heard during video calls.
- Young children at home during school days, elderly residents with health conditions, and residents who work night shifts (who sleep during daytime hours) are disproportionately and severely impacted. None of these categories are analyzed in the EIR.
- The 24/7 drilling schedule means there is literally no time during any 24-hour period when residents are not affected. The hotel voucher covers nighttime sleep for two households. It does not cover the remaining 22+ waking hours for those households, or any hours for anyone else.

## VIII. MONITORING, OVERSIGHT, AND RESIDENT RECOURSE: WHAT THE MMRP FAILS TO PROVIDE

### A. Who Will Actually Monitor This Project?

The MMRP consistently designates the Community Development Director as the oversight authority. This is appropriate as a formal matter, but the MMRP does not establish any dedicated resident-facing complaint mechanism, does not provide any resident-accessible monitoring data, does not require any third-party independent monitor, and does not create any process for residents to trigger enforcement when violations occur.

The gap between paper compliance and actual enforcement is where residents will live for the two-week drilling period and beyond. The MMRP's compliance monitoring framework is entirely designed around checking documents (plans, contracts, certifications) rather than around measuring real-world conditions at real residential property lines in real time.

### What the MMRP Says vs. What Residents Actually Need

MMRP Says...	What This Means in Practice	What Residents Need Instead
"All measures printed on construction documents"	A piece of paper exists somewhere. No verification it's implemented.	Daily compliance log filed with the City and posted publicly online
"Community Development Director" has oversight	No dedicated staff monitoring the site; CDD responds to complaints after the fact	Dedicated city inspector present during all drilling and high-impact activities
MM NOI-1.3: noise monitoring during demolition, grading, etc.	Contractor self-monitors during non-drilling phases only; no independent verification	Third-party independent acoustic monitoring firm, not the contractor, with real-time data accessible to City and residents
MM NOI-1.2: 45-day advance notice to two households before nighttime drilling	Larger neighborhood receives no notice. No process to report violations.	72-hour notice to ALL residents within 300 feet before any drilling; dedicated hotline for noise, vibration, and air quality complaints with 2-hour response guarantee
Construction documents filed with City before permits issued	After-construction discovery of non-compliance has no remedy mechanism	Real-time monitoring portal accessible to residents; automatic work stoppage protocol if thresholds exceeded

### B. No Independent Third-Party Monitor

The MMRP relies entirely on Cal Water (the applicant) and its contractors to self-implement the mitigation measures. The City reviews paper submittals. No independent third-party environmental monitor is required to be present during drilling, during diesel generator testing, during production test discharge, or during any other high-impact activity. This is structurally inadequate for a project that the EIR itself acknowledges will cause significant and unavoidable impacts in a residential neighborhood.

- An independent construction monitor (ICM) — retained by and reporting to the City, not the applicant — is required for construction projects in residential areas with significant and unavoidable impacts. This is not merely an informal norm: CPUC Rule of Practice and Procedure 2.5 explicitly requires utilities to pay for independent construction monitors on CEQA

projects, in addition to any utility-retained monitors. The underlying statutory authority is Public Resources Code § 21081.6, which requires lead agencies to establish monitoring programs ensuring that mitigation measures are actually implemented. The ICM's function is to observe actual construction conditions, measure actual noise and vibration levels, document actual equipment operation, and report findings directly to the City — not to Cal Water. Allowing Cal Water to self-certify mitigation compliance is inconsistent with the independent-monitoring framework that CEQA and the CPUC's own rules establish for utility construction projects affecting residential neighborhoods.

- The construction dust and diesel exhaust complaint contact posted under MM 3.5.3 (a publicly visible sign with a phone number) provides a 48-hour response time. Forty-eight hours of unmitigated drill noise while waiting for a callback is unacceptable. Residents need a 2-hour maximum response commitment with an automatic work-stoppage authority if thresholds are exceeded.
- Cal Water's own financial interests are in completing construction on schedule and at minimum cost. The community's interests are in maximum mitigation and minimum harm. Expecting Cal Water to self-police these competing interests without independent oversight is not consistent with the intent of CEQA mitigation.

### **C. Who Enforces Violations?**

The MMRP is silent on enforcement. It describes what must be done but creates no procedure for what happens when requirements are not met. The sequence of events when a violation occurs is entirely undefined:

- If acoustic barriers are installed incorrectly or not maintained, who verifies this and who orders correction?
- If the contractor uses Tier 3 equipment despite Tier 4 being required, who detects this and what remedy is available?
- If PPV levels at the property line are exceeded (which the MMRP doesn't even require measuring), what happens?
- If a resident's foundation is cracked or radiant pipes are sheared, who investigates causation, and what is the process to hold Cal Water liable?
- The MMRP has no bond, no escrow, no surety, and no insurance requirement. If Cal Water causes property damage, residents must sue in civil court — a process that can take years and cost more than the damage itself for individual homeowners.

### **D. Requested: Resident Oversight Committee and Formal Complaint Mechanism**

The City should condition any approval of this project on the establishment of a formal Community Liaison Committee with the following characteristics:

- Membership: minimum three residents from the immediately surrounding neighborhood, one City planning staff member, one Cal Water representative.
- Regular meetings: at minimum bi-weekly during construction, monthly during the 12 months following construction completion.
- Authority: Committee may refer complaints to the City for enforcement action; City must respond in writing within 5 business days.
- Public records: all monitoring data (noise, vibration, air quality, generator test run logs) posted publicly within 48 hours of collection.
- Emergency protocol: dedicated phone line with 2-hour response guarantee; automatic work stoppage authority if thresholds are exceeded.
- Damage claims process: clear, documented procedure for residents to submit property damage claims, with Cal Water required to respond in writing within 30 days and resolve within 90 days or submit to binding arbitration.

## **IX. GAPS IN THE FINAL EIR: WHAT WAS NOT ADEQUATELY ANALYZED**

### **A. Summary of Key Analytical Deficiencies**

The following issues were either absent from, inadequately analyzed in, or not resolved in the Final EIR (February 2026). These gaps should require additional analysis before the Planning Commission certifies the EIR or grants any permits.

#### **1. No Alternatives Analysis Addressing Commercial-Zone Sites**

CEQA requires a good-faith alternatives analysis that considers project alternatives that could achieve the project's basic objectives with reduced significant impacts. The EIR's alternatives analysis should be evaluated to determine whether it genuinely considered commercially-zoned sites within Cal Water's service area that could achieve equivalent groundwater supply. The requirement to replace a well at the specific location where a prior well existed is a Cal Water operational preference, not an immutable physical necessity. If an alternative commercially-zoned site was available and not analyzed, the EIR is legally deficient.

#### **2. No Interior Noise Analysis for Eichler Homes with Single-Pane Glass Walls**

The EIR's entire noise analysis is based on exterior noise levels measured at property lines. It contains no analysis of interior noise levels inside adjacent homes. For standard construction in a neighborhood with conventional insulated walls and windows, exterior-to-interior attenuation assumptions are reasonable. For Eichler homes with floor-to-ceiling original single-pane glass rear walls facing the project site, those assumptions are not reasonable — and the EIR makes no acknowledgment of this distinction. Interior noise levels inside these homes will be materially higher than the EIR implies. The significant and unavoidable noise finding should be re-evaluated accounting for Eichler-specific interior conditions.

#### **3. No Vibration Analysis Whatsoever**

The MMRP section is titled "Noise and Vibration" but contains zero vibration analysis. The EIR's noise analysis chapter (based on the Noise Assessment Report, Appendix B of the Draft EIR, dated July 24, 2024) addresses airborne noise only. No peak particle velocity (PPV) analysis was performed, no vibration thresholds were established, no site-specific ground coupling analysis was conducted, and no monitoring requirements for vibration were proposed. For a project proposing continuous deep-well drilling (800-1,000 feet) with 24/7 operation for two consecutive weeks, adjacent to homes built on unreinforced concrete slabs with embedded copper radiant heating pipes, the complete absence of vibration analysis is an indefensible analytical gap.

#### **4. No Analysis of Work-From-Home Impacts**

The EIR's health and impacts analysis treats residential uses as nighttime sleeping environments and daytime-absent residences. It does not analyze the reality that many residents of this Apple-Campus-adjacent neighborhood work from home full-time. The inability to work productively in one's own home during two weeks of 24/7 industrial drilling — or even during permanent generator test runs — is a direct, concrete harm that the EIR does not address.

#### **5. No Operational Air Quality Plan for the Permanent Diesel Generator**

The EIR's air quality analysis (Initial Study Appendix A, Health Risk Assessment and GHG Assessment) analyzes construction-phase diesel emissions. It does not analyze the long-term operational air quality impacts of the permanent diesel emergency generator. Under NFPA 110 — the mandatory federal standard governing standby power systems — this generator will be legally required

to conduct monthly 30-minute test runs, annual 90-minute extended tests, and a 4-hour full-load test every three years. These mandatory testing cycles will produce diesel particulate matter, PM2.5, NOx, and carcinogenic compounds in a quiet residential neighborhood throughout the 30-50 year life of the facility. This is a permanent, legally mandated physical environmental impact that the EIR does not quantify.

### **6. No Cumulative Analysis of Combined Noise, Air Quality, and Vibration Impacts**

The EIR analyzes noise impacts and air quality impacts as separate topics. It does not provide a cumulative analysis of the combined experience of being a resident adjacent to this site: simultaneous continuous drilling noise, diesel exhaust from multiple engines, ground vibration, generator operation, and chemical deliveries — occurring around the clock for weeks during construction and on an ongoing basis during operations. The cumulative lived experience of adjacent residents is qualitatively and quantitatively worse than the sum of each impact analyzed separately.

### **7. Inadequate Analysis of Groundwater Table Effects on Adjacent Foundations**

The EIR's geotechnical analysis addresses broad basin-level groundwater management but does not analyze parcel-scale effects on adjacent Eichler home foundations. The Santa Clara Valley's clay-bearing soils are well-documented as susceptible to expansion and contraction with soil moisture changes. Long-term groundwater extraction at the proposed rate could alter local moisture conditions, causing differential settlement in unreinforced concrete slabs. This is a permanent physical environmental impact on adjacent properties that the EIR's geological analysis does not adequately address at the parcel scale.

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## **X. LEGAL ARGUMENTS: WHY THE CITY COUNCIL CANNOT LAWFULLY CERTIFY THIS EIR**

The deficiencies identified in this comment are not merely policy disagreements. They constitute independent legal grounds on which certification of the Final EIR would be subject to challenge by writ of mandate under Code of Civil Procedure Section 1085 or Public Resources Code Section 21167. Each argument below identifies the applicable legal standard, the specific deficiency, and the consequence for this project. These arguments are presented to place the Planning Commission on notice — and on the record — of the legal exposure created by certifying an inadequate EIR. Residents have exhausted all required administrative remedies by submitting this comment at the public hearing, satisfying the exhaustion requirement of Public Resources Code Section 21177.

### **A. The EIR's Air Quality Analysis Is Legally Inadequate Under *Sierra Club v. County of Fresno***

In *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, the California Supreme Court unanimously held that an EIR must make 'a reasonable effort to substantively connect a project's air quality impacts to likely health consequences.' The Court established that an EIR is inadequate if it merely lists pollutant quantities or provides a 'general description of symptoms' associated with exposure without connecting those emission levels to actual health impacts on neighboring residents. The Court also held that where an EIR's discussion of a significant impact is factually insufficient, a court applies *de novo* — not deferential — review, meaning the City receives no deference on this question.

The Cal Water Final EIR analyzes construction-phase diesel particulate matter (DPM) emissions but provides no analysis of the long-term, operational air quality impacts of the permanent diesel emergency generator. Under NFPA 110 — the National Fire Protection Association standard governing emergency standby power systems — diesel generators are legally required to undergo: (1) monthly testing under load for a minimum of 30 continuous minutes; (2) annual load bank testing of 90 continuous minutes (at 50% nameplate load for 30 minutes followed by 75% nameplate load for 60

minutes) when monthly tests do not meet the 30% threshold; and (3) a full-load test of a minimum of 4 continuous hours every three years. These are not discretionary practices — they are mandatory legal requirements. Over a 30-50 year facility life, mandatory testing alone will produce hundreds of hours of scheduled diesel combustion events in this quiet residential zone, entirely separate from any actual power emergencies. The EIR's health risk assessment is limited to construction DPM. It provides no estimate of cumulative DPM, PM2.5, or NOx exposure to adjacent residents from these mandatory operational test cycles — and no discussion of health consequences at those exposure levels. This is precisely the analytical gap the California Supreme Court found legally inadequate in County of Fresno. Labeling this equipment an “emergency” generator does not eliminate the legal obligation to analyze its recurring, mandated operational emissions. The EIR cannot be defended as legally sufficient on this record.

Furthermore, the County of Fresno Court held that a mitigation measure's bare statement that it 'will substantially reduce air quality impacts' is legally insufficient without supporting facts or analysis. MM AIR-3.1's requirement of Tier 4 diesel equipment addresses construction emissions only — there is no operational air quality mitigation measure for the generator at all. Where a significant impact exists (long-term DPM from generator operations at an adjacent residential receptor) and there is neither analysis of the impact nor any mitigation measure, the EIR fails the County of Fresno standard on two independent grounds.

## **B. The MMRP's Complete Omission of Vibration Analysis Is Independently Sufficient to Invalidate the EIR**

CEQA Guidelines Section 15126.4 requires an EIR to describe feasible measures to minimize significant environmental effects. The EIR's section is titled 'Noise and Vibration,' yet contains zero analysis of ground-borne vibration — no peak particle velocity (PPV) thresholds, no site-specific analysis, no monitoring plan, and no mitigation measures. The MMRP is identically silent. This is not a case of inadequate analysis; it is a complete absence of analysis on a topic the EIR itself titles as subject to review.

The Caltrans guidance used industry-wide sets a PPV threshold of 0.25 inches per second for 'old or historically significant buildings' — a standard directly applicable to Eichler homes built in 1961-62 on unreinforced concrete slabs with embedded copper radiant heating pipes. Deep-well drilling at 800-1,000 feet generates ground vibration. That is not a speculative possibility — it is a well-documented physical fact. The California Court of Appeal held in its 2021 Squaw Valley decision (*Save Our Access v. Squaw Valley Resort*) that an EIR's decision to 'analyze only noise impacts on sensitive receptors within 50 feet of expected construction activity was an act of arbitrary line drawing that improperly foreclosed evaluation of impacts beyond that radius.' The complete omission of vibration analysis here is more severe than arbitrary line-drawing — there is no analysis at all. A court applying de novo review to this structural omission would find the EIR legally deficient.

Importantly, where the MMRP omits a required mitigation measure for a known impact, the omission is not correctable after certification without requiring a subsequent EIR. CEQA Guidelines Section 15162 requires preparation of a subsequent EIR if 'new information of substantial importance' shows that 'mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment.' If vibration impacts on Eichler slab foundations are subsequently shown to be significant, the City will face a legal obligation to prepare a subsequent EIR — after having already approved the project. The Planning Commission avoids this risk only by requiring vibration analysis now.

## **C. The MMRP's Mitigation Measures Are Impermissibly Vague and Fail to Include Required Performance Standards**

Under settled California law, mitigation measures must include 'specific performance standards and guarantees that effectively commit the agency to future achievement of those standards.' *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099. A mitigation measure that merely requires a project

applicant to 'prepare a plan' or 'consult with agencies' without specifying the performance standard to be achieved is impermissibly deferred. *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814.

The MMRP's noise monitoring measure MM NOI-1.3 requires monitoring 'during demolition, grading, excavation, and trenching phases' but explicitly does not extend to the drilling phase — which is, by the EIR's own finding, the source of the significant and unavoidable noise impact. This is not mere vagueness; it is a structural gap in coverage for the project's most impactful activity. MM NOI-1.2 provides hotel vouchers for only two residential addresses during nighttime drilling — but the EIR provides no methodology for how those two addresses were selected, no standard for how additional addresses would qualify, and no performance standard for what decibel level triggers hotel placement. MM AIR-3.1 requires Tier 4 diesel equipment but specifies no monitoring, no verification mechanism, and no performance standard beyond the equipment-class requirement itself. Each of these measures, as currently drafted, lacks the 'clear, existing performance standards' required by California case law.

Where mitigation measures are vague, complaint-driven, or lack enforceable performance standards, courts have consistently held EIRs inadequate. The Court of Appeal in *Save the Agoura Cornell Knoll v. City of Agoura Hills* (2020) 46 Cal.App.5th 665 held that mitigation measures in a negative declaration were 'ineffective or improperly deferred.' The MMRP as drafted contains multiple measures that are either limited in scope to the wrong phases, rely on resident complaints as the trigger for monitoring, or omit performance standards entirely. The Planning Commission should require Cal Water and city staff to revise all MMRP measures to include specific numerical performance standards with verified, independent monitoring before certifying the EIR.

#### **D. The Alternatives Analysis Is Legally Deficient for Failing to Consider a Commercial-Zone Siting Alternative**

CEQA Guidelines Section 15126.6 requires an EIR to 'describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic project objectives while avoiding or substantially lessening any of the significant effects of the project, and evaluate the comparative merits of the alternatives.' The range of alternatives must be governed by a 'rule of reason' — but the rule of reason does not permit an agency to confine analysis to a no-project alternative when a clearly feasible, significantly less impactful alternative exists. *Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal.App.3d 433 (city required to make specific infeasibility finding for each identified alternative before adopting SOC).

Cal Water's service area in Sunnyvale includes commercially-zoned properties along El Camino Real, Lawrence Expressway, and other commercial corridors where groundwater wells, storage tanks, diesel generators, and chemical storage are compatible uses. The EIR does not identify, evaluate, or explain the rejection of any commercially-zoned alternative site within Cal Water's service area. The basic project objective — supply additional groundwater to Cal Water's Sunnyvale service area — is indifferent to whether the well is located at 800 Carlisle Way or at a commercially-zoned property nearby. There is no hydrogeological finding in the EIR demonstrating that the aquifer can only be accessed from this specific residential location. Cal Water's preference for this specific location, based on ownership of an existing facility, is an operational preference — not a finding of physical necessity. The EIR must evaluate alternative siting that would entirely eliminate the significant and unavoidable noise impact on a residential neighborhood.

This gap is particularly acute because the project has a significant and unavoidable impact (Impact NOI-1). Under *Citizens for Quality Growth* and CEQA Guidelines Section 15091(a)(3), an agency cannot adopt a Statement of Overriding Considerations without first finding that each identified alternative is infeasible. There is no such finding in the EIR for commercial-zone alternatives because those alternatives were never analyzed. A court reviewing the SOC would have no record on which to find that the alternative was considered and rejected for specific, supported reasons. The SOC is legally infirm without a genuine alternatives analysis.

## **E. The Statement of Overriding Considerations Cannot Lawfully Be Adopted on This Record**

CEQA Guidelines Section 15093(b) requires a Statement of Overriding Considerations to 'state in writing the specific reasons to support its action based on the final EIR and/or other information in the record.' The California Supreme Court, relying on these requirements, has made clear that the SOC must be grounded in substantial evidence in the administrative record — not on generic statements of public benefit. In the *City of San Diego v. Board of Trustees of the California State University* (2015), the Supreme Court invalidated a Statement of Overriding Considerations where the agency's infeasibility finding was not supported by substantial evidence in the record.

This project creates an acute SOC problem. The sole identified significant and unavoidable impact — construction noise (Impact NOI-1) — will fall entirely on residents who are not Cal Water customers. The homes immediately surrounding 800 Carlisle Way lie outside Cal Water's Sunnyvale service territory; while Cal Water serves other portions of Sunnyvale, the Fairwood neighborhood on Carlisle Way, Kingfisher Way, and Coventry Court is not among them. These neighbors receive no water service benefit from this project. Any SOC that relies on 'water supply reliability' or 'public utility benefit' as an overriding consideration must grapple honestly with the fact that the residents bearing 100% of the significant and unavoidable impact receive 0% of the identified benefit. A court reviewing an SOC that cites water supply benefit as overriding a noise impact on a non-customer residential neighborhood would scrutinize whether that benefit actually 'outweighs' the harm to the affected community — particularly where the community is a designated Eichler preservation neighborhood and where the EIR itself failed to analyze interior noise impacts on single-pane glass homes.

Additionally, the SOC cannot substitute for feasible mitigation. CEQA Section 21002 provides that a public agency 'should not approve a project as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects.' The EIR has not shown that all feasible mitigation for the noise impact has been exhausted — because the drilling-phase monitoring gap in MM NOI-1.3, the hotel-voucher limit to only two addresses, and the complete absence of vibration mitigation all represent unanalyzed feasible measures. Until all feasible mitigation is adopted or found infeasible, the City cannot lawfully adopt an SOC.

## **F. Inverse Condemnation Exposure: A Legal Consequence the Planning Commission Must Consider Before Approving**

Beyond the CEQA analysis, residents whose property is physically damaged by the Cal Water construction project may have claims for inverse condemnation under Article I, Section 19 of the California Constitution. In California, a privately owned public utility providing water distribution services constitutes a public use, and the entity may be subject to inverse condemnation liability for property damage caused by its facilities. *Barham v. Southern California Edison* (1999) 74 Cal.App.4th 744 (investor-owned utility providing public service subject to inverse condemnation). Water distribution systems are 'obvious examples' of public use sufficient to support inverse condemnation claims. Critically, inverse condemnation does not require proof of negligence — a property owner need only show that the public improvement caused actual physical damage to their property.

If deep-well drilling at 800-1,000 feet generates sufficient ground vibration to crack the unreinforced concrete slabs of adjacent Eichler homes, or to shear the copper radiant heating pipes embedded within those slabs, those homeowners have a viable inverse condemnation claim against Cal Water as a public utility engaged in a public use. The absence of any pre-construction foundation survey in the MMRP means there will be no baseline against which post-construction damage can be measured — making such claims harder to prove but also harder for Cal Water to refute. The City's approval of a project without requiring such a baseline survey exposes both Cal Water and potentially the City itself to liability claims.

The Planning Commission should be aware that California courts have held that where government or quasi-governmental entities (including investor-owned utilities exercising public use authority) damage private property 'substantially and peculiarly,' those property owners may also have direct tort claims.

Construction impacts — noise, vibration, dust, fumes — are generally not compensable under inverse condemnation absent a 'direct, substantial, and peculiar impact' on specific properties. Today's IV, Inc. v. Los Angeles County Metropolitan Transportation Authority. However, the specific vulnerability of Eichler homes on unreinforced slabs with embedded copper pipes to vibration-induced structural damage may cross this threshold. Requiring Cal Water to conduct pre-construction foundation surveys, establish a vibration damage claims process, and maintain adequate insurance is not merely a policy request — it is a legally prudent condition of project approval.

### **G. California Civil Code Section 3479 Nuisance: The Permanent Generator and Chemical Storage Create Potential Actionable Nuisance**

California Civil Code Section 3479 defines a nuisance as 'anything which is injurious to health, including... indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.' A permanent diesel emergency generator that conducts regular test runs in a quiet residential neighborhood, chemical storage enclosures within a residential zone, and an industrial pump facility with ongoing operational noise all satisfy the statutory definition of a potential private nuisance for adjacent homeowners.

Under California law, a nuisance is 'continuing' when it is reasonably abatable — and courts have consistently held that continuing nuisances allow successive suits with the statute of limitations running from each new injury. A generator that runs monthly test cycles for 30-50 years creates a recurring basis for private nuisance claims. Although nuisance is typically a civil remedy rather than a ground for CEQA challenge, the Planning Commission should recognize that its approval of a private utility's industrial facility in a residential zone may expose adjacent homeowners to a permanent nuisance condition — and that this physical harm is one the EIR was required to analyze and mitigate. The failure to do so does not eliminate the nuisance; it defers it to civil litigation.

For the City's own protection, the Planning Commission should require Cal Water to provide legally binding commitments — recorded as covenants against the Cal Water property or secured by escrow — ensuring liability for any nuisance claims arising from permanent operational noise, vibration, or chemical releases, before any construction permits are issued.

### **H. The Long-Term Operational Impacts Must Be Analyzed — Piecemealing Is Impermissible**

CEQA forbids 'piecemeal' review of a project's environmental impacts. Under Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, an EIR must include analysis of future phases or operational activities if they are 'reasonably foreseeable consequences of the initial project' and 'will likely change the scope or nature of the initial project or its environmental effects.' In North Coast Rivers Alliance v. A.G. Kawamura (2016), the Court of Appeal held that an EIR violated CEQA by failing to evaluate ongoing long-term operational impacts when the agency's own documents acknowledged the activity 'would have to go on forever.'

The Cal Water EIR analyzes construction-phase impacts in detail but provides only cursory analysis of operational-phase impacts. The permanent diesel generator, which will operate for 30-50 years with monthly test cycles, is a reasonably foreseeable operational impact. The permanent pump facility, which will generate continuous mechanical noise and vibration at the residential property line, is a reasonably foreseeable operational impact. The three permanent chemical storage enclosures, which will require regular delivery, use, and potential spillage incidents over decades, are reasonably foreseeable operational impacts. These are not future speculative projects — they are integral components of the project as described. The EIR's failure to analyze their long-term impacts is impermissible piecemealing under Laurel Heights and its progeny.

What I firmly oppose — and what this comment documents in detail — is the imposition of industrial water utility infrastructure on an architecturally protected, 1962 Eichler neighborhood, by a private for-profit company, for the benefit of customers who live elsewhere, while the neighborhood that bears all the harm receives none of the benefit.

These homes — with their floor-to-ceiling glass walls (a defining characteristic identified in the City's own Eichler Design Guidelines), radiant heated unreinforced slabs, embedded copper pipes, and post-and-beam construction with large areas of glass facing private yard areas — are uniquely and severely vulnerable to every impact this project generates: noise that enters through glass that residents cannot simply replace without city design review; vibration that travels through soil and threatens the unreinforced slabs and the copper pipes buried inside them; diesel exhaust that permeates a neighborhood whose open design was never intended to shield against adjacent industrial operations; and permanent industrial intrusion into the quiet residential setting that Sunnyvale's own zoning laws, design guidelines, and neighborhood preservation policies were enacted to protect.

The MMRP as drafted is critically incomplete. It omits vibration entirely. It omits long-term diesel generator air quality. It omits hazardous materials. It does not account for the unique acoustic vulnerability of Eichler homes. It provides no independent oversight mechanism and no resident recourse. The Final EIR does not analyze interior noise levels in single-pane glass homes, does not analyze work-from-home impacts, and does not provide a genuine alternatives analysis for commercially-zoned sites. The significant and unavoidable noise finding (Impact NOI-1) requires a Statement of Overriding Considerations that honestly grapples with the specific community being harmed — and that community receives no water service benefit from this project at all.

Until these gaps are remedied, the Planning Commission should not certify the Final EIR or grant any permits for this project.

Respectfully submitted,

**Ann Bogan**

Resident of Sunnyvale, California

February 27, 2026

## APPENDIX: CROSS-REFERENCE TABLE — MMRP MEASURES vs. RESIDENT CONCERNS

The following table shows which MMRP measures exist, which resident concerns they address, and which concerns remain entirely unaddressed by the current MMRP.

MMRP Measure	What It Requires	Resident Concern Addressed	Remaining Gap / Requested Addition
LUTE MM 3.5.3	Basic dust/exhaust BMPs during construction	Construction phase PM10/PM2.5 at property lines	No ambient monitoring at residential receptors; no work-stoppage trigger based on measured levels
MM AIR-3.1	35% DPM reduction via Tier 4 equipment or equivalent plan	Cancer risk from construction diesel exhaust	<b>"If feasible" escape clause not adequately controlled; expires at end of construction — permanent generator not covered</b>
MM BIO-1.1	Nesting bird surveys	Wildlife habitat during	Adequate — request advance

	and buffers	construction	neighbor notification of survey completion and construction start
MM GEO-6.1	Paleontological resource discovery protocol	Unique paleontological features	<b>Does NOT cover: soil contamination from prior chemical storage; differential settlement of adjacent Eichler slabs; groundwater level changes</b>
MM NOI-1.1	Installation of extensive acoustic barrier walls before drilling	Airborne drilling noise at adjacent residences	<b>Barriers do not attenuate ground-borne vibration; drilling phase not covered by MM NOI-1.3 monitoring; barriers must be in place before drilling begins — no verification mechanism</b>
MM NOI-1.2	Hotel vouchers at \$300/night for 2 households during nighttime drilling	Nighttime noise impact at 819 and 823 Coventry Court	<b>Covers only 2 of potentially many impacted households; does not prevent the noise — asks residents to leave their homes; threshold used (50 dBA) higher than WHO sleep disturbance threshold (40 dBA)</b>
MM NOI-1.3	Noise monitoring during non-drilling construction; portable barriers if within 1 dBA of 80 dBA threshold	Noise during grading, excavation, trenching, tank construction	<b>Does NOT cover drilling phase — the loudest activity. No monitoring during drilling. No vibration monitoring at all.</b>
<b>NO MEASURE</b>	<b>ABSENT</b>	<b>Ground-borne vibration impacts on Eichler slab foundations and embedded copper radiant pipes</b>	<b>ENTIRE TOPIC MISSING: No PPV analysis, no threshold, no monitoring, no pre/post surveys, no liability mechanism</b>
<b>NO MEASURE</b>	<b>ABSENT</b>	<b>Permanent diesel generator air quality and GHG emissions</b>	<b>ENTIRE TOPIC MISSING: No BAAQMD permit referenced, no DPF/SCR requirement, no operational monitoring, no alternatives analysis</b>
<b>NO MEASURE</b>	<b>ABSENT</b>	<b>Hazardous materials — 3 chemical enclosures, production test discharge</b>	<b>ENTIRE TOPIC MISSING: No HMBP, no Phase II ESA, no secondary containment specs, no discharge water quality testing</b>
<b>NO MEASURE</b>	<b>ABSENT</b>	<b>Long-term operational noise from pumps, generator tests</b>	<b>ENTIRE TOPIC MISSING: No operational noise modeling, no compliance demonstration, no monitoring program</b>

**Key:** Red cells = significant gap requiring new MMRP measures. Yellow cells = addressable gap requiring MMRP clarification or expansion. No highlight = adequate as written.