



CITY OF BURBANK
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November 9, 2006

VIA FAX AND U.S. MAIL

Jawahar P. Shah
City of Los Angeles
Public Works, Bureau of Sanitation
Wastewater Engineering Services Division
2714 Media Center Drive
Los Angeles, California 90065

Re: *Further Comments on the Final Environmental Impact Report for the
Integrated Resources Plan (SCH No. 2004071091)*

Dear Mr. Shah:

The City of Burbank ("Burbank") requests that the City of Los Angeles recognize and respond to Burbank's concerns regarding the deficiencies in the Final Environmental Impact Report ("Final EIR" or "FEIR") for Los Angeles' proposed wastewater Integrated Resources Plan ("IRP"). This letter, together with Burbank's seven previous comment letters submitted on February 15, 2006, February 27, 2006, March 2, 2006, March 22, 2006, March 30, 2006 (two letters), and October 31, 2006, have described those deficiencies, and this letter should be considered in conjunction with Burbank's prior objections.

It is our understanding that the proposed IRP and Final EIR will be considered by the Los Angeles City Council on November 14, 2006. Please include a copy of this letter in the Council's agenda package.

As we have stated in our prior letters, the Final IRP EIR must comply with the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000, *et seq.*, and its implementing regulations, the State CEQA Guidelines, Title 14, California Code of Regulations section 15000, *et seq.* ("CEQA Guidelines"). However, the EIR is inadequate, due *in part* to the failure to analyze the staff-recommended GBIS hybrid alignment -- specifically, the new Barham/Olive/Pass Avenue segment, and other feasible alternatives to that segment.

If the City insists on proceeding with EIR certification, the purpose of this letter is to propose feasible mitigation measures to be adopted by Los Angeles, even though it is extremely difficult to devise such measures due to the EIR's failure to identify and analyze the potential significant environmental impacts of the new alignment. In proposing such measures, please understand that Burbank is not conceding or waiving its position that the IRP EIR is inadequate under CEQA. In fact, Burbank reasserts its position that the EIR must be revised to, among other things, assess the new GBIS segment for potential impacts to aesthetics, air quality, cultural resources, geology, soils, hazards, hazardous materials, hydrology, water quality, land use and planning, noise, vibration, traffic, utilities, and public services. The failure to assess impacts to

Burbank caused by the IRP is a violation of CEQA, and prevents Burbank from fully assessing all of the mitigation required to protect the residents and property in Burbank. Nonetheless, and without waiving any issues, Burbank requests that the following mitigation measures be adopted, in the event the City decides to take final action to certify the IRP EIR:

1. Prior to approval of any grading, excavation, or encroachment into the City of Burbank and prior to construction of the GBIS hybrid alignment, specifically the Barham/Olive/Pass Avenue segment, the City of Los Angeles shall provide bonding or proof of insurance, in a manner that will indemnify the City of Burbank from any damage to residents or property as a result of GBIS tunneling within the boundaries of the City of Burbank.
2. At several points during construction of the GBIS hybrid alignment, specifically the Barham/Olive/Pass Avenue segment, Burbank will inspect construction to monitor conditions and determine if any measures may be necessary to prevent danger to persons or property, or unnecessary environmental damage, within the City of Burbank. Required inspections by Burbank may include imposition of continuous or regular inspection and supervision by a civil engineer, soils engineer, and/or engineering geologist hired by the City of Burbank. The City of Los Angeles shall pay for such independent work on behalf of the City of Burbank during the duration of construction of the GBIS segment within Burbank.
3. Prior to construction of the GBIS hybrid alignment, and prior to approval of any grading, excavation, or encroachment into the City of Burbank, the City of Los Angeles shall submit to Burbank's Director of Public Works for approval, all access, haul routes, and Traffic Control Plans related to construction of the GBIS segment in Burbank. Traffic Control Plans shall include restricted hours, travel time restrictions for construction-related traffic to avoid peak travel periods, local traffic detours, traffic control measures, and provisions to maintain emergency access through construction work areas. Haul routes to and from the construction shaft sites and freeway access ramps must be included in the Traffic Control Plans. Haul routes must be established to minimize travel through residential areas. The City of Los Angeles shall pay for the preparation and implementation costs of the Traffic Control Plans.

The City of Los Angeles also shall provide an emergency 24-hour hotline for City of Burbank residents in the event of any negative impacts caused by GBIS construction. The City of Los Angeles or its contractor shall respond immediately to address any negative impacts caused by construction within the boundaries of the City of Burbank.

4. Prior to approval of any grading, excavation, or encroachment into the City of Burbank, and during construction of the GBIS hybrid alignment, the City of Los Angeles shall submit to Burbank's Director of Public Works, annually updated maps of the project, showing in detail the exact location, size, description and date of installation, if known, of all mains, laterals, and service pipes, and of all valves, pressure regulators, drips, transformers, chambers, or other appliances installed beneath the surface of the street

within the boundaries of the City of Burbank. The City of Los Angeles shall pay for the preparation of these updated maps throughout project construction.

5. Prior to approval of any grading, excavation, or encroachment into the City of Burbank and prior to construction of the GBIS hybrid alignment, specifically the Barham/Olive/Pass Avenue segment, the City of Los Angeles shall provide Burbank's Department of Public Works with an engineering geological report and a soil engineering report prepared by a registered civil engineer or certified engineering geologist.

The geotechnical report shall include a summary of all subsurface exploration data, plus subsurface soil profiles, exploration logs, laboratory or in situ test results, and groundwater information; an interpretation and analysis of the subsurface data; mapping and review of seismic hazard zones; specific engineering recommendations for design; conditions for resolving anticipated problems; and any recommended geotechnical conditions.

The soils report shall contain soil profiles based on representative sampling along the GBIS alignment route, evaluate soil strength, the effect of moisture variation on soil-bearing capacity, compressibility, liquefaction, and expansiveness. All test borings and/or excavation locations shall be shown on a plot plan; a description and classification of the materials encountered shall be provided; elevation of the water table, if encountered, shall be recorded; recommendations for design criteria, including bearing capacity, provisions to mitigate the effects of expansive soils, provisions to mitigate the effects of liquefaction, and the effects of adjacent loads shall be provided; and expected total and differential settlement shall be determined. Additional studies may be required if soils or geologic conditions require additional design considerations, including, but not limited to, potentially heaving bedrock associated with expansive, steeply dipping bedrock; potentially swelling soil and rock; and/or disturbed or filled soils. Also, additional studies may be required if, based on these reports, Burbank's Director of the Department of Public Works deems them necessary to prevent danger to persons or property, or unnecessary environmental damage to property, within the City of Burbank. The City of Los Angeles shall pay for the preparation of all geological reports, soil reports, and any additional reports required by the City of Burbank.

The City of Los Angeles shall provide an emergency 24-hour hotline for City of Burbank residents in the event of any negative impacts caused by GBIS construction. The City of Los Angeles or its contractor shall respond immediately to address the negative impacts caused by GBIS construction within the boundaries of the City of Burbank. Upon notification of a complaint regarding soil settlement, liquefaction, expansion, or similar impacts, Los Angeles/project coordinators shall promptly perform measurements at the complainant's location. In the event that the measured level exceeds allowable limits or results in nuisance conditions, the City of Los Angeles shall immediately implement remediation measures. Operation of the emergency hotline, and all subsequent testing and remediation, shall be paid for by the City of Los Angeles.

The geological and soil reports shall be approved by the City of Burbank's Department of Public Works prior to the commencement of any GBIS construction within the boundaries of the City of Burbank.

6. Prior to approval of any grading, excavation, or encroachment into the City of Burbank and prior to construction of the GBIS hybrid alignment, specifically the Barham/Olive/Pass Avenue segment, Los Angeles shall provide Burbank's Department of Public Works with a Noise Control and Monitoring Plan prepared by a licensed acoustical engineer.

The Noise Control and Monitoring Plan must be based on a collection of baseline and compliance noise data, evaluation of noise consequences through measurements and predictive modeling for the area of Burbank affected by the GBIS hybrid alignment, specifically the Barham/Olive/Pass segment. The Plan shall include the submission of equipment noise certification tests, performance of noise studies in the area, and project-change impact analyses as applicable. The Plan also shall include monitoring of short-term and long-term noise compliance monitoring; establishing equipment emission noise criteria limits; defining operational and/or equipment restrictions; providing a presence in the field during nighttime periods (noise patrol); ensuring that contractors are fulfilling their noise control plans; requiring (in construction contracts) that all construction equipment be equipped with mufflers and other suitable noise-attenuation devices; and provisions to shut down any night work resulting in excessive noise. The City of Los Angeles shall pay for the Plan's preparation and implementation costs.

The City of Los Angeles shall provide an emergency 24-hour hotline for City of Burbank residents in the event of any negative impacts caused by GBIS construction. The City of Los Angeles or its contractor shall respond immediately to address the negative impacts caused by GBIS construction within the boundaries of the City of Burbank. Upon notification of a noise complaint, Los Angeles/project coordinators shall promptly perform noise measurements at the complainant's location during activities representative of the offending operation. The measured level exceeds allowable limits or results in nuisance conditions, construction activities shall immediately implement noise reduction controls. Operation of the emergency hotline, and all subsequent testing and remediation, shall be paid for by the City of Los Angeles.

The Plan shall be approved by the City of Burbank's Department of Public Works prior to the commencement of any GBIS construction within the boundaries of the City of Burbank.

7. Prior to approval of any grading, excavation, or encroachment into the City of Burbank and prior to construction of the GBIS hybrid alignment, specifically the Barham/Olive/Pass Avenue segment, the City of Los Angeles shall provide Burbank's Department of Public Works with a Vibration Control and Monitoring Plan.

The Plan shall be designed ensure that groundborne vibration does not exceed the applicable levels at locations along the GBIS alignment within the City of Burbank, including the segment along Barham/Olive/Pass Avenue. Construction vibration levels at various points along the GBIS alignment shall be monitored. A vibration-monitoring program to measure vertical and lateral movement and vibration during nearby construction activities shall be developed. During construction, vibration level measurements shall be taken at representative locations during ongoing construction activities at applicable daytime, evening, and nighttime periods. During construction, construction activities shall implement industry standard best management practices to limit vibration impacts (particularly nuisance vibration), including use of rubber pads (or ties) or other vibration-insulating materials beneath rails to absorb or dampen vibrations; using new or like-new rail and muck cars; ensuring that rails are aligned and have minimal seams; routing of truck traffic and heavy equipment to avoid impacts to sensitive receptors; scheduling of work to limit nighttime impacts on residential areas; heightened attention and controls when working below historic properties along the IRP tunneling route; and minimization of the duration of vibration impacts.

The City of Los Angeles shall provide an emergency 24-hour hotline for City of Burbank residents in the event of any negative impacts caused by GBIS construction. The City of Los Angeles or its contractor shall respond immediately to address the negative impacts caused by GBIS construction within the boundaries of the City of Burbank. Upon notification of a vibration complaint, Los Angeles/project coordinators shall promptly perform vibration measurements at the complainant's location during activities representative of the offending operation. In the event that the measured level exceeds allowable limits or results in nuisance conditions, construction activities shall immediately implement vibration reduction controls. Operation of the emergency hotline, and all subsequent testing and remediation, shall be paid for by the City of Los Angeles.

The Plan shall be approved by the City of Burbank's Department of Public Works prior to the commencement of any GBIS construction within the boundaries of the City of Burbank.

8. No maintenance hole structures shall be placed within the City of Burbank along the GBIS alignment, including the segment along Barham/Olive/Pass Avenue.
9. All surface construction activities shall be avoided for the GBIS alignment within the City of Burbank, including the segment along Barham/Olive/Pass Avenue.
10. No tunneling construction sites shall occur within the City of Burbank, unless a construction emergency situation requires such construction. No such construction emergencies are anticipated. In the event of an emergency situation requiring a tunneling construction site, the City of Los Angeles shall submit an application for an excavation permit, including Traffic Control Plans, for approval by the City of Burbank's Department of Public Works. No tunneling construction sites or surface disruption shall occur without advance written approval of the City of Burbank's Department of Public

Works. The City of Los Angeles shall be responsible for all plan check fees, inspection costs, and any other costs borne by City of Burbank staff as a result of the GBIS construction.

11. The City of Los Angeles shall provide an emergency 24-hour hotline for City of Burbank residents in the event of any negative impacts caused by GBIS construction. The City of Los Angeles or its contractor shall respond immediately to address the negative impacts caused by GBIS construction within the boundaries of the City of Burbank. Operation of the emergency hotline, and all subsequent testing and remediation, shall be paid for by the City of Los Angeles.
12. The City of Los Angeles shall provide Burbank residents and businesses located within a one-mile radius of the GBIS alignment with notification of any and all possible impacts they may experience during construction of the GBIS alignment, including, but not limited to: dates, hours, and locations of street closures; dates and hours of construction; possible noise, vibration, and odor impacts; and any potential effects on utility services. This notification must be made at least one week in advance of the anticipated impacts. The notification must take the form of letters to individual residences and businesses within the affected project radius, posted signs within the affected project radius, and a posted website with notice and additional information about impacts and affected areas. The notification shall include the availability of the emergency 24-hour hotline for City of Burbank residents in the event of any negative impacts caused by GBIS construction.
13. The City of Los Angeles shall provide 30-day advance written notice to the City of Burbank's Department of Public Works if there are any changes in the GBIS alignment due to unforeseen conditions. No geographical deviation from the approved GBIS alignment in Burbank shall be allowed without the prior written approval of Burbank's Department of Public Works.
14. In the event of any surface disruption caused by the GBIS construction in Burbank, the City of Los Angeles shall be required to repave the entire width of the roadway up to the nearest intersection in both directions. The City of Los Angeles shall pay for any required repavement or remediation to ensure that all City of Burbank requirements are followed. The repavement shall be equal to or greater than the existing asphalt cross section.
15. In the event of any surface disruption caused by the GBIS construction in Burbank, the City of Los Angeles shall submit an application for an excavation permit, including Traffic Control Plans, for approval by the City of Burbank's Department of Public Works. No surface disruption shall occur without advance written approval of the City of Burbank's Department of Public Works. The City of Los Angeles shall be responsible for all plan check fees, inspection costs, and any other costs borne by City of Burbank staff as a result of the GBIS construction.
16. The City of Los Angeles shall be responsible for any disruption to utilities or services due to any GBIS construction within the City of Burbank. The City of Los Angeles shall be

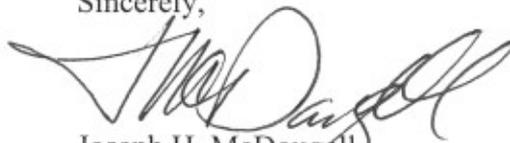
responsible for the repair of any damaged utilities or services to the satisfaction of the City of Burbank's Department of Public Works.

17. The City of Los Angeles acknowledges that it must apply for discretionary permits from the City of Burbank prior to commencing any GBIS construction work that is expected to occur within the boundaries of the City of Burbank. The application for such permits shall require CEQA compliance, and the City of Los Angeles shall be solely responsible for all costs associated with the City of Burbank's permitting process.

The above mitigation measures are not all-encompassing; it is impossible for Burbank to assess the required mitigation due to the EIR's failure to assess the Barham/Olive/Pass Avenue segment for potential impacts to aesthetics, air quality, cultural resources, geology, soils, hazards, hazardous materials, hydrology, water quality, land use and planning, noise, vibration, traffic, utilities, and public services. Nonetheless, the above mitigation measures are feasible and must be included in the IRP Final EIR, but they should not be construed by Los Angeles as a substitute for the impact and alternatives analyses required by CEQA.

Thank you for your consideration. If you should have any questions for the City of Burbank, please do not hesitate to contact this office.

Sincerely,



Joseph H. McDougall
Senior Assistant City Attorney

cc: Los Angeles City Council

Los Angeles Councilmember Eric Garcetti (President)
Los Angeles Councilmember Wendy Greuel (President Pro Tempore)
Los Angeles Councilmember Jan Perry (Assistant President Pro Tempore)
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Dave Golonski, Council Member

Dr. David Gordon, Council Member

Jef Vander Borgh, Council Member

Gatzke Dillon & Ballance LLP