



# South Coast Air Quality Management District

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SENT VIA E-MAIL:

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## **Draft Environmental Impact Report (Draft EIR) for Proposed In-N-Out Restaurant Project (Proposed Project) (SCH No.: 2020050075)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments include a recommended revision to the air quality analysis, South Coast AQMD's permits, and compliance with South Coast AQMD rules and regulations that the Lead Agency should include in the Final EIR.

### South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposes to demolish 41,000 square feet of existing infrastructure and construct a 3,885-square-foot restaurant with a drive-through on 1.52 acres (Proposed Project). The Proposed Project is located at 42560 Bob Hope Drive on the northeast corner of Highway 111 and Magnesia Falls Drive within the City of Rancho Mirage. Construction is anticipated to begin in April 2021 and will take seven months to complete<sup>1</sup>. Once operational in October 2021, the Proposed Project will generate 3,045 vehicle trips per day from employees and customers<sup>2</sup>. Operations of the Proposed Project will require the use of a maximum of three grills during peak operating hours<sup>3</sup>.

### South Coast AQMD Staff's Summary of the Air Quality Analysis

In the Air Quality Analysis Section of Draft EIR, the Lead Agency quantified the Proposed Project's regional construction and operational emissions but compared them to South Coast AQMD's regional air quality CEQA significance thresholds for construction. Based on the analysis, the Lead Agency found that the Proposed Project's regional air quality impacts from construction and operational activities would be less than significant<sup>4</sup>. The Lead Agency also analyzed the Proposed Project's localized air quality impacts. Localized construction and operational air quality impacts were found to be less than significant when compared to the respective CEQA localized construction and operational thresholds<sup>5</sup>. No air quality mitigation measures for construction or operation were included in the Draft EIR<sup>6</sup>.

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<sup>1</sup> Draft EIR. Chapter 3 Project Description. Page 3.0-15.

<sup>2</sup> Draft EIR. Chapter 5, Section 5.2 Air Quality. Page 5.2-24.

<sup>3</sup> Draft EIR. Chapter 3 Project Description. Page 3.0-15.

<sup>4</sup> Draft EIR. Chapter 5, Section 5.2 Air Quality. Pages 5.2-27 to 5.2-28.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.* Pages 5.2-27 to 5.2-38.

South Coast AQMD Staff's Comments*CEQA Air Quality Impact Analysis*

In the Draft EIR, the Lead Agency quantified the maximum operational emissions for the Proposed Project and found that the unmitigated regional maximum operational NO<sub>x</sub> emissions would be 57 pounds per day (lbs/day)<sup>7</sup>. However, the Lead Agency used an incorrect regional air quality CEQA significance threshold to determine the level of significance for the Proposed Project's operational air quality impacts from NO<sub>x</sub> emissions in the Draft EIR. Instead of comparing 57 lbs/day of NO<sub>x</sub> emissions from operation to South Coast AQMD's regional air quality CEQA significance threshold for operational NO<sub>x</sub> emissions at 55 lbs/day, the Lead Agency compared those emissions to South Coast AQMD's regional air quality CEQA significance threshold for construction NO<sub>x</sub> emissions at 100 lbs/day. Therefore, South Coast AQMD staff recommends that the Lead Agency use the appropriate regional air quality CEQA significance thresholds in the Final EIR to determine the level of significance for the Proposed Project's operational air quality impacts<sup>8</sup> and require mitigation measures if the Proposed Project's operational air quality impacts are found to be significant (CEQA Guideline Section 15126.4).

*South Coast AQMD's Permits, Responsible Agency, and Compliance with South Coast AQMD Rules and Regulations*

Operation of the Proposed Project will require the use of a maximum of three grills to be operating during peak hours. Based on a review of the project description, it is not clear if these are charbroiler grills, which can release emissions of particulate matter (PM) and volatile organic compounds (VOC) during operation. South Coast AQMD Rule 1138 – Control of Emissions from Restaurant Operations regulates emissions from commercial cooking operations<sup>9</sup>, including emissions from charbroilers. Therefore, it is recommended that the Lead Agency consult with South Coast AQMD's Engineering and Permitting staff to determine if any permits from South Coast AQMD will be required for operation of the grilling equipment, and if compliance with applicable South Coast AQMD rules is required and should be discussed in the Air Quality Section of the Final EIR.

If implementation of the Proposed Project requires a permit from South Coast AQMD, South Coast AQMD should be identified as a Responsible Agency for the Proposed Project in the Final EIR. The assumptions used in the Air Quality Analyses in the Final EIR will be used as the basis for evaluating the permits under CEQA and imposing permit conditions and limits. If there is any information in the permitting process suggesting that the Proposed Project would result in significant adverse air quality impacts not analyzed in the Final EIR, or substantially more severe air quality impacts than those analyzed in the Final EIR, the Lead Agency should commit to reevaluating the Proposed Project's air quality and health risks impacts through a CEQA process (CEQA Guidelines Section 15162). Questions on permits and applicable South Coast AQMD

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<sup>7</sup> *Ibid.* Table 5.2-6. Page 5.2-27.

<sup>8</sup> *Ibid.*

<sup>9</sup> South Coast AQMD Rule 1138 – Control of Emissions from Restaurant Operations. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1138.pdf>

rules can directed to South Coast AQMD's Engineering and Permitting staff at (909) 396-3385. For more general information on permits, please visit South Coast AQMD's webpage at: <http://www.aqmd.gov/home/permits>.

#### Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project.

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Alina Mullins, Air Quality Specialist, at [amullins@aqmd.gov](mailto:amullins@aqmd.gov), should you have any questions or wish to discuss the comments.

Sincerely,

*Lijin Sun*

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

LS:AM

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