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CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

NEIGHBORS FOR SMART RAIL, Plaintiff and Appellant, v. EXPOSITION METRO LINE CONSTRUCTION AUTHORITY et al., Defendants and Respondents; LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY et al., Real Parties in Interest.	B232655 (Los Angeles County Super. Ct. No. BS 125233)

APPEAL from a judgment of the Superior Court for the County of Los Angeles. Thomas I. McKnew, Jr., Judge. Affirmed.

Elkins Kalt Weintraub Reuben Gartside, John M. Bowman and C.J. Laffer for Plaintiff and Appellant.

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* Pursuant to California Rules of Court, rules 8.1100 and 8.1110, this opinion is certified for publication with the exception of parts 3 through 8 of the Discussion.

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Cox, Castle & Nicholson, Michael H. Zischke, Andrew B. Sabey and Rachel R. Jones for League of California Cities and California State Association of Counties as Amici Curiae on behalf of Respondents and Real Parties in Interest.

Carmen A. Trutanich, City Attorney, Andrew J. Nocas, Supervising City Attorney, Timothy McWilliams and Siegmund Shyu, Deputy City Attorneys, for City of Los Angeles as Amicus Curiae on behalf of Respondents and Real Parties in Interest.

SUMMARY

This appeal arises under the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.)[1] and involves the second phase of the construction of a light rail line along the Exposition Corridor connecting downtown Los Angeles with Santa Monica. The first phase, approved in 2005, will run from downtown Los Angeles to Culver City. The second phase (the project or Expo Phase 2) consists of the proposed construction of 6.6 miles of light rail line from the terminus of the first phase in Culver City to Santa Monica. On February 4, 2010, the Board of the Exposition Metro Line Construction Authority (the Expo Authority) approved the project and certified as adequate and complete a final environmental impact report (EIR) for the project.[2]

CEQA describes the EIR as an informational document. Its purpose is to provide public agencies, and the public, with detailed information about the effect a proposed project is likely to have on the environment; to list ways in which the significant effects of a project might be minimized; and to identify alternatives to a project. (§ 21061.) Neighbors for Smart Rail (petitioner), a nonprofit California corporation comprised of a coalition of homeowners' associations, community groups and unaffiliated citizens, sought a writ of mandate. Petitioner asked the trial court to order the Expo Authority to vacate and set aside its approval of the EIR and other project approvals. The trial court denied the petition.

Petitioner appeals, arguing that the Expo Authority used an improper baseline for analyzing the impacts of the project on traffic, air quality and greenhouse gas emissions. Petitioner contends the Expo Authority improperly evaluated the significance of those

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[1] All statutory references are to the Public Resources Code unless otherwise specified.

[2] The Expo Authority was created by statute in 2003 for the purpose of awarding and overseeing final design and construction contracts for completion of the light rail project from downtown Los Angeles to Santa Monica. (Pub. Util. Code, §§ 132600, 132605.) The Los Angeles County Metropolitan Transportation Authority (Metro) and its Board are real parties in interest.

environmental impacts using baseline conditions in 2030. According to petitioner, the Expo Authority should have used baseline conditions that existed sometime between 2007, when the notice of preparation of the Expo Phase 2 project was filed, and 2010, when the Expo Authority certified the final EIR. The use of hypothetical future conditions as the baseline for analyzing the environmental impacts of the project, petitioner argues, violates CEQA, as held in *Sunnyvale West Neighborhood Assn. v. City of Sunnyvale City Council* (2010) 190 Cal.App.4th 1351, 1382-1383 (*Sunnyvale*) and *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 90 (*Madera*).

Petitioner also contends the EIR was inadequate on several other grounds, arguing (1) the traffic analysis failed to address potential traffic impacts on Sepulveda Boulevard, which serves as a de facto alternative route when traffic is particularly bad on the Interstate 405 Freeway (I-405); (2) the analysis of growth-inducing impacts did not discuss the potential impacts of concentrating new development around the planned transit stations; (3) the analysis of cumulative traffic impacts did not consider the localized traffic impacts of related projects, in particular the Casden Project, a probable future mixed-use project adjacent to the proposed Sepulveda transit station; (4) mitigation measures were inadequate (and improperly deferred) to reduce adverse impacts related to parking, noise and vibration, safety and construction; and (5) the EIR failed to adequately evaluate grade separation as a design alternative to at-grade crossings between Overland Avenue and Sepulveda Boulevard.

Finally, petitioner contends the Expo Authority made "major changes" after circulation of the draft EIR, but failed to recirculate the EIR and permit additional comment, as is required when significant new information is added to an environmental impact report after notice and public comment but before certification.

We find no merit in petitioner's contentions and affirm the judgment. Because we disagree with *Sunnyvale* and *Madera*, and hold that use of projected future conditions as a baseline for analyzing environmental impacts is proper in this case, we publish that portion of our opinion.

FACTUAL AND PROCEDURAL BACKGROUND

The project under review is called the Exposition Corridor Transit Project Phase 2, referred to in the EIR as "Expo Phase 2." Its purpose is to extend high-capacity, high-frequency transit service from the Expo Phase 1 terminus at the Venice/Robertson Station in Culver City to Santa Monica.

After various preliminary procedures, including a public "scoping" period during which the Expo Authority received and considered over 1,800 comments from public agencies and individuals concerning the project design and proposed alternatives, the Expo Authority circulated a draft EIR. The draft EIR included six alternatives: a "No-Build" alternative, consisting of the existing transit services plus improvements "explicitly committed to be constructed by the year 2030" as defined in the Southern California Association of Governments (SCAG) Regional Transportation Plan; a "Transportation System Management" alternative, involving the addition of a rapid bus route connecting downtown Culver City with downtown Santa Monica, with associated service improvements on selected routes; and four light rail transit (LRT) alignments, all beginning at the terminus of Expo Phase 1 and ending in downtown Santa Monica near the intersection of 4th Street and Colorado Avenue.

The four LRT alignments were further broken down into segments for purposes of environmental analysis. Segment 1 of two of the LRT alignments included four consecutive at-grade (street level) crossings, where the proposed LRT line crosses Overland Avenue, Westwood Boulevard, Military Avenue, and Sepulveda Boulevard, as well as an at-grade station and a 170-space parking lot within the right-of-way east of Westwood Boulevard. The draft EIR also discussed several alternatives that were rejected by the Expo Authority; none of them included grade-separated crossings in Segment 1.

The Expo Authority received almost 9,000 written and oral comments on the draft EIR. In response to the comments, the Expo Authority undertook more technical and environmental analyses, as well as agency coordination and community outreach. These

additional efforts resulted in changes to the LRT alternatives and new design options that were included in the final EIR.

The changes to the LRT alternatives included a grade-separated (elevated) crossing at Centinela Avenue, a third northbound lane on Sepulveda Boulevard, and the redistribution of parking from the Colorado/4th Street station to nearby City of Santa Monica public parking facilities. The new design options included, among others, a grade-separated (elevated) crossing at Sepulveda Boulevard, elimination of parking at the Expo/Westwood station, and an alternative layout for the maintenance facility that created additional space between the facility and a nearby residential area.

The Expo Authority also further analyzed the Overland Avenue and Westwood Boulevard grade crossings in coordination with the Los Angeles Department of Transportation (LADOT), and confirmed that those crossings would operate safely at grade, with effects mitigated to a less than significant level. (The final EIR described two design options for grade separation (a trench under Overland Avenue and Westwood Boulevard and an aerial structure) at those crossings, but concluded that grade separation at those locations "would not be needed to mitigate significant impacts, and if anything, would generate other environmental impacts," and did not evaluate either of those design options.)

The final EIR, including the changes just described, was circulated on December 21, 2009, identifying LRT Alternative 2 as the preferred alternative for the project. LRT Alternative 2 follows the existing, Metro-owned railroad right-of-way known as the Exposition Corridor right-of-way (part of which runs adjacent to Cheviot Hills) from the Expo Phase 1 terminus in Culver City to the Sepulveda Boulevard intersection. The route continues along the Exposition Corridor right-of-way to its intersection with Olympic Boulevard, and follows the right-of-way to west of 19th Street in Santa Monica, where it diverges onto Colorado Avenue east of 17th Street and continues along the center of Colorado Avenue, terminating between 4th and 5th Streets.

On February 4, 2010, after a public hearing, the Expo Authority certified the final EIR and approved the Expo Phase 2 project, adopting LRT Alternative 2 with

modifications. The Expo Authority adopted detailed findings of fact, a statement of overriding considerations, and a mitigation monitoring and reporting program.

Petitioner sought a writ of mandate invalidating the Expo Authority's certification of the EIR and setting aside the approval of the Expo Phase 2 project. Judgment was entered denying the petition for a writ of mandate on March 4, 2011, and this appeal followed.

The relevant details of the EIR will be set out in the course of our discussion.

DISCUSSION

We first describe the settled principles guiding our review in CEQA cases, and then address in turn each of the challenges petitioner interposes to the adequacy of the final EIR.

1. CEQA Principles and the Standard of Review

A comprehensive discussion of CEQA and the purposes and role of an EIR appears in *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390-393 (*Laurel Heights I*). The Legislature intended CEQA to be interpreted to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. (*Laurel Heights I*, at p. 390.) Before approving a project, the lead agency—here, the Expo Authority—must find either that the project's significant environmental effects identified in the EIR have been avoided or mitigated, or that unmitigated effects are outweighed by the project's benefits. (*Id.* at p. 391, citing §§ 21002, 21002.1 & 21081.) The EIR has been described as " 'the heart of CEQA,' " an " 'environmental "alarm bell," ' " and a "document of accountability." (*Laurel Heights I*, at p. 392.) "If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees." (*Ibid.*)

In an action to set aside an agency's decision under CEQA, the court's inquiry extends only to whether there was a prejudicial abuse of discretion. Abuse of discretion occurs if the agency has not proceeded in a manner required by law, or if its decision is

not supported by substantial evidence. The court passes only upon the EIR's sufficiency as an informative document, not upon the correctness of its environmental conclusions. (*Laurel Heights I, supra*, 47 Cal.3d at p. 392.) CEQA Guidelines, which implement the provisions of CEQA, define "substantial evidence" as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Guidelines, § 15384, subd. (a).)[3]

Laurel Heights I cautions that a court may not set aside an agency's approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable. (*Laurel Heights I, supra*, 47 Cal.3d at p. 393.) CEQA's purpose is to compel government to make decisions with environmental consequences in mind, but CEQA " 'does not, indeed cannot, guarantee that these decisions will always be those which favor environmental considerations.' " (*Laurel Heights I*, at p. 393.) Technical perfection in an EIR " ' "is not required; the courts have looked not for an exhaustive analysis but for adequacy, completeness and a good-faith effort at full disclosure." ' " (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 979.)

The appellate court's inquiry is the same as that of the trial court. The appellate court reviews the administrative record independently to determine whether the Expo Authority complied with CEQA or made determinations that were not supported by substantial evidence. (*Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 912; see also § 21168.) "The burden of showing that the EIR is inadequate is on the party challenging the EIR." (*Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1562 (*Pfeiffer*).)

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3 All references to "Guidelines" are to the current CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.). Courts "should afford great weight to the Guidelines except when a provision is clearly unauthorized or erroneous under CEQA." (*Laurel Heights I, supra*, 47 Cal.3d at p. 391, fn. 2.)

2. The Baseline for Analysis of Traffic, Air Quality and Greenhouse Gas Issues

An EIR uses an environmental baseline to analyze the impacts of a project. The Expo Authority found the population and traffic levels that were current in 2009 did not provide a reasonable baseline for determining the significance of traffic and air quality impacts of the project and, instead, used future, 2030 baseline conditions to make that determination. Petitioner contends that, as a matter of law, projected future conditions cannot provide the baseline for reviewing the significance of environmental impacts. We disagree.

Before we address petitioner's contention in the context of this case, we summarize the law on the point as it has developed so far.

a. The law

CEQA itself does not refer to a baseline, but CEQA Guidelines tell us the following: "An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. ***This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.***" (Guidelines, § 15125, subd. (a), italics and boldface added.)[4]

As the Supreme Court has observed, "A long line of Court of Appeal decisions holds, in similar terms, that the impacts of a proposed project are ordinarily to be compared to the actual environmental conditions existing at the time of CEQA analysis,

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[4] See also Guidelines, section 15126.2, subdivision (a): "An EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced."

rather than to allowable conditions defined by a plan or regulatory framework." (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 320-321 (*CBE*).) "This line of authority includes cases where a plan or regulation allowed for greater development or more intense activity than had so far actually occurred, as well as cases where actual development or activity had, by the time CEQA analysis was begun, already exceeded that allowed under the existing regulations. In each of these decisions, the appellate court concluded the baseline for CEQA analysis must be the 'existing physical conditions in the affected area' [citation], that is, the ' "real conditions on the ground" ' [citations], rather than the level of development or activity that *could* or *should* have been present according to a plan or regulation." (*Id.* at p. 321, fns. omitted.)

CBE involved modifications at a petroleum refinery where the operation of four boilers (the existing steam generation equipment) was restricted by permits stating a maximum rate of heat production. To evaluate changes in nitrogen oxide (NOx) emissions that would be caused by the proposed modifications, the agency used as a baseline the maximum emissions allowed under the current permits, that is, all four boilers running at maximum capacity simultaneously, even though such simultaneous operation was not the norm. In ordinary operation, a boiler would run at maximum allowed capacity only when one or more of the other boilers were shut down for maintenance. (*CBE*, *supra*, 48 Cal.4th at p. 322.)

The court concluded the agency's baseline—simultaneous maximum operation—was "not a realistic description of the existing conditions without the [project]. . . . By comparing the proposed project to what *could* happen, rather than to what was actually happening, the District set the baseline not according to 'established levels of a particular use,' but by 'merely hypothetical conditions allowable' under the permits." (*CBE*, *supra*, 48 Cal.4th at p. 322.) This approach, using "hypothetical allowable conditions as the baseline," provided "an illusory basis for a finding of no significant adverse effect despite an acknowledged increase in NOx emissions exceeding the District's published significance threshold." (*Ibid.*) This use of maximum capacity levels rather than actually

existing levels of emissions from the boilers, as a baseline to analyze emissions from the project, was "inconsistent with CEQA and the CEQA Guidelines." (*Id.* at pp. 326-327.)

CBE also observed: "Neither CEQA nor the CEQA Guidelines mandates a uniform, inflexible rule for determination of the existing conditions baseline. Rather, an agency enjoys the discretion to decide, in the first instance, exactly how the existing physical conditions without the project can most realistically be measured, subject to review, as with all CEQA factual determinations, for support by substantial evidence." (*CBE, supra*, 48 Cal.4th at p. 328.)[5]

Since *CBE*, two Courts of Appeal have held it was improper to use predicted conditions on a date after EIR certification or project approval as the baseline for assessing environmental consequences. In *Sunnyvale*, the Sixth District found that projected 2020 conditions provided an improper baseline for determining traffic and related impacts of a roadway extension project. (*Sunnyvale*, *supra*, 190 Cal.App.4th at p. 1383.) In *Madera*, a case involving the development of 1,579 acres for residential,

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[5] The court again quoted the Guidelines (§ 15125, subd. (a)) directing that the lead agency "normally" use a measure of physical conditions at the time a notice of preparation is published or when the environmental analysis is commenced. (*CBE, supra*, 48 Cal.4th at p. 327.) The court continued:

> "But, as one appellate court observed, 'the date for establishing baseline cannot be a rigid one. Environmental conditions may vary from year to year and in some cases it is necessary to consider conditions over a range of time periods.' [Citation.] In some circumstances, peak impacts or recurring periods of resource scarcity may be as important environmentally as average conditions. Where environmental conditions are expected to change quickly during the period of environmental review for reasons other than the proposed project, project effects might reasonably be compared to predicted conditions at the expected date of approval, rather than to conditions at the time analysis is begun. [Citation.] A temporary lull or spike in operations that happens to occur at the time environmental review for a new project begins should not depress or elevate the baseline; overreliance on short-term activity averages might encourage companies to temporarily increase operations artificially, simply in order to establish a higher baseline." (*CBE, supra*, 48 Cal.4th at pp. 327-328.)

commercial and light industrial uses, the Fifth District followed *Sunnyvale*, concluding the EIR failed to clearly identify the baseline being used to quantify the project's impacts on traffic, and holding that "a baseline . . . must reflect existing physical conditions" and "lead agencies do not have the discretion to adopt a baseline that uses conditions predicted to occur on a date subsequent to the certification of the EIR." (*Madera*, *supra*, 199 Cal.App.4th at pp. 89-90, 92, 96.)

In still another case, involving a proposal to expand a medical campus in the City of Sunnyvale, the Sixth District rejected a claim the EIR used a legally incorrect traffic baseline for determining the project's traffic impacts. (*Pfeiffer*, *supra*, 200 Cal.App.4th at p. 1557.) In *Pfeiffer*, the EIR used multiple traffic baselines to analyze traffic impacts: existing conditions, background conditions (existing traffic volumes multiplied by a growth factor plus traffic from approved but not yet constructed developments), project conditions and cumulative conditions. (*Id.* at pp. 1560, 1571.) The court rejected the claim that use of background "predicted" conditions was improper and that the baseline should be limited to existing conditions. (*Id.* at p. 1572.) The court observed: "[A]ppellants' contention that a traffic baseline is limited to existing conditions lacks merit because . . . the California Supreme Court has instructed that predicted conditions may serve as an adequate baseline where environmental conditions vary. . . . ([*CBE*], *supra*, 48 Cal.4th at pp. 327-328.) Here, there was substantial evidence, undisputed by appellants, that traffic conditions in the vicinity of the . . . project could vary from existing conditions due to a forecast for traffic growth and the construction of already-approved developments. Moreover, appellants overlook the fact that the EIR included existing conditions, based on actual traffic counts, in its analysis of traffic impacts." (*Pfeiffer*, at p. 1572.)

Pfeiffer distinguished *Sunnyvale* because in *Sunnyvale*, the traffic baselines included only projected traffic conditions in 2020, while in *Pfeiffer* the baselines also "included existing conditions and the traffic growth anticipated from approved but not yet constructed developments." (*Pfeiffer*, *supra*, 200 Cal.App.4th at p. 1573.) In addition, *Sunnyvale* had acknowledged that discussions of expected future conditions may be

necessary to an intelligent understanding of a project's impacts over time. (*Pfeiffer*, at p. 1573; *Sunnyvale*, *supra*, 190 Cal.App.4th at p. 1381.)

b. This case

In this case, the Expo Authority described the existing physical environmental conditions in the EIR and acknowledged that, under CEQA Guidelines, those conditions would normally constitute the appropriate baseline physical conditions for determining whether an impact is significant. For most environmental topics, the Expo Authority found existing conditions to be the appropriate baseline—but not for traffic and air quality impacts. Instead, the Expo Authority "elect[ed] to utilize the future baseline conditions for the purposes of determining the significance of impacts to traffic and air quality," finding that "the existing physical environmental conditions (current population and traffic levels) do not provide a reasonable baseline for the purpose of determining whether traffic and air quality impacts of the Project are significant."

Thus, the Expo Authority defined the "No-Build" alternative as consisting of existing transit services and "improvements explicitly committed to be constructed by the year 2030" as defined in the 2008 SCAG Regional Transportation Plan,[6] and evaluated projected future traffic and air quality conditions with and without the project. SCAG identified the project as a necessary component of the regional transportation system in Southern California, and the Expo Authority relied on various SCAG projections for 2030, which it identified as the project's planning horizon. The Expo Authority "adopted official demographic and [*sic*] projections for the project area and region" and further explained: "Past experience with the adopted demographic projections indicate[s] that it is reasonable to assume that the population of the project area and the region will continue to increase over the life of the project. The projected population increases will,

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6 The Expo Authority's findings of fact further explain that the No-Build alternative "includes only transit service and roadway construction projects that are programmed and funded and would be expected to occur, independent of and regardless of whether one of the proposed Transportation Systems Management . . . or LRT Alternatives is approved."

in turn, result in increased traffic congestion and increased air emissions from mobile sources in the project area and in the region." The Expo Authority found it was necessary to evaluate future projected traffic and air quality conditions with and without the project "so that the public and the decision makers may understand the future impacts on traffic and air quality of approving and not approving the project." So, for example, in traffic studies analyzing the impact of the project on intersection delay, the EIR assessed project impacts "under 'future' conditions," evaluating "the impacts of the project alternatives against projected future traffic conditions in the year 2030," identifying impacts both with and without the project.

Petitioner objects to the Expo Authority's approach, contending, based on *Sunnyvale* and *Madera*, that it fails to comply with CEQA by using "hypothetical 'future' conditions as the baseline for analyzing impacts on traffic, air quality, and climate change . . . ." Further, petitioner objects that use of the No-Build conditions as the environmental baseline was improper because the No-Build conditions represent a future, hypothetical scenario that assumes the completion of various regional transportation improvements. Petitioner objects, for example, that the "threshold for assessing the Project's potential impacts on the operation of selected street intersections was whether the Project would cause an intersection's level of service ('LOS') 'under the No-Build [alternative]' to deteriorate from an acceptable LOS to an unacceptable LOS . . . []' by 2030." Petitioner argues that the use of existing conditions at the intersections as the baseline "would have likely revealed additional and/or more severe traffic impacts" than were identified with the use of 2030 as the baseline. Petitioner makes similar objections with respect to the EIR's analysis of air quality and greenhouse gases.

We agree with the Expo Authority and amici curiae that, in a proper case, and when supported by substantial evidence, use of projected conditions may be an appropriate way to measure the environmental impacts that a project will have on traffic,

air quality and greenhouse gas emissions.[7] As a major transportation infrastructure project that will not even begin to operate until 2015 at the earliest, its impact on *presently existing* traffic and air quality conditions will yield no practical information to decision makers or the public. An analysis of the environmental impact of the project on conditions existing in 2009, when the final EIR was issued (or at any time from 2007 to 2010), would only enable decision makers and the public to consider the impact of the rail line *if it were here today*. Many people who live in neighborhoods near the proposed light rail line may wish things would stay the same, but no one can stop change. The traffic and air quality conditions of 2009 will no longer exist (with or without the project) when the project is expected to come on line in 2015 or over the course of the 20-year planning horizon for the project. An analysis of the project's impacts on anachronistic 2009 traffic and air quality conditions would rest on the false hypothesis that everything will be the same 20 years later.

Consequently, we reject the notion that CEQA forbids, as a matter of law, use of projected conditions as a baseline. Nothing in the statute, the CEQA Guidelines, or *CBE* requires that conclusion. To the extent *Sunnyvale* and *Madera* purport to eliminate a lead

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[7] The Expo Authority also argues that petitioner did not exhaust its administrative remedies on the baseline issue in the proceedings below, pointing out that in fact petitioner criticized the Expo Authority for not using a 2035 baseline. (Petitioner asserted in a letter to the Expo Authority that the "traffic study and corresponding air quality analysis should be based upon a 20-year planning horizon for environmental analysis, " and "the environmental analysis should be based upon modeling that forecasts out to the project design year of 2035, not 2030," because "[o]therwise, the environmental analysis is only based upon a 15-year window with a base year [2005] that occurs 9 years before the project is projected to be implemented [2014].") Another commenter, however, did raise the issue, asserting that the draft EIR "understates the impact of the Project's traffic," measuring the impact "by comparing the change in intersection performance between the No-Build alternative and LRT alternative in 2030," but nowhere evaluating "the impact between the Project-added traffic to existing conditions." While petitioner did not raise the issue, we think the quoted comment was sufficiently specific to preserve the claim for appeal. (See *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 536.)

agency's discretion to adopt a baseline that uses projected future conditions under any circumstances, we disagree with those cases.

Recognizing that we are bound to follow the Supreme Court's teaching in *CBE*, we find *CBE* does not resolve this case. *CBE* rejected the use of "hypothetical allowable conditions" when those conditions were "not a realistic description of the existing conditions" without the project, as that would be an "illusory basis" for a finding of no significant impact from the project. (*CBE, supra*, 48 Cal.4th at p. 322.) But present-day "hypothetical allowable" conditions are quite different from projected future conditions. And the timeline for building a major new transportation project is likewise different from the timeline to modify already-operating steam generation equipment. It is "illusory" to assume something is happening (and use it for a baseline) when it is not happening and never has, such as with the NOx emissions in *CBE*. But there is nothing "illusory" about population growth and its inevitable impacts on traffic and air quality: population *is* growing, and population increases *do* affect traffic and air quality, with or without the project. A decision to measure environmental effects of a long-term project by looking at those effects in the long term is neither hypothetical nor illusory. It is a realistic and rational decision.

CBE is not to the contrary. The choices in *CBE both* involved measuring the project's effects against "existing" conditions: the existing *allowable* emissions versus the existing *actual* emissions. The court insisted on a *realistic* description of existing conditions, and that meant actual, not hypothetical, existing conditions. Here, by contrast, existing conditions—population and traffic levels—are not static, and are not in any sense a "realistic" baseline from which to measure the traffic and air quality impacts of a long-term rail infrastructure project. On the contrary, using a 20-year planning horizon, based on reasonable demographic projections, to measure those impacts is, it seems to us, eminently realistic.

We turn now to *Sunnyvale* and *Madera*, cases that petitioner contends require the measurement of environmental impacts against presently existing conditions under any

and all circumstances.[8] *Sunnyvale* involved a roadway extension project. The EIR used projected traffic conditions in the year 2020, "based on expected growth under the City of Sunnyvale's general plan and in neighboring communities, as its 'baseline' to evaluate the roadway project's traffic and related impacts," and "did not consider the project's traffic and related impacts on the existing environment." (*Sunnyvale*, *supra*, 190 Cal.App.4th at p. 1358.) The court concluded this was "a failure to proceed in the manner required by law." (*Id.* at p. 1383.)

Sunnyvale emphasized case law indicating that an EIR " 'must focus on impacts to the existing environment, not hypothetical situations.' " (*Sunnyvale*, *supra*, 190 Cal.App.4th at p. 1373.) And the court cited *CBE*'s conclusion that the lead agency in that case was required to "compare 'existing physical conditions' without the project to the conditions expected to be produced by the project because '[w]ithout such a comparison, the EIR will not inform decision makers and the public of the project's significant environmental impacts, as CEQA mandates. (§ 21100).' " (*Sunnyvale*, at p. 1375, quoting *CBE*, *supra*, 48 Cal.4th at p. 328.) *Sunnyvale* pointed out that in *CBE* the Supreme Court "never sanctioned the use of predicted conditions on a date subsequent to EIR certification or project approval as the 'baseline' for assessing a project's environment consequences." (*Sunnyvale*, at p. 1375.) But neither did the Supreme Court forbid the use of projected future conditions; the point was simply not at issue.

In the end, *Sunnyvale* holds that "[t]he statute [CEQA] *requires* the impact of *any* proposed project to be evaluated against a baseline of existing environmental conditions

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8 The League of California Cities, the California State Association of Counties, the City of Los Angeles, SCAG, and some 11 other regional transportation and water agencies have joined in briefs supporting the use of projected future conditions and asking this court to reject the *Sunnyvale* approach. They contend that use of a future-conditions baseline is essential for long-range transportation and water supply projects, in order to isolate project-generated environmental effects from ambient effects that would occur in any event. It is the *Sunnyvale* approach, they say, that would study hypothetical conditions: "the project is constructed *today* and conditions remained *unchanged* over the next 20 to 30 years."

(see §§ 21060.5, 21100, subd. (d), 21151, subd. (b); see also CEQA Guidelines, § 15125, subd. (a)), which is the *only* way to identify the environmental effects specific to the project alone." (*Sunnyvale*, *supra*, 190 Cal.App.4th at p. 1380, italics added.) But none of the statutory provisions or Guidelines cited "requires" that conclusion. Moreover, *Sunnyvale* cites no authority for its own conclusion that use of a baseline of current conditions "is the only way" to identify impacts "specific to the project alone" (*Sunnyvale*, at p. 1380)—and we find that conclusion is erroneous when applied to traffic and air quality impacts of a long-term infrastructure project, the very purpose of which is to improve traffic and air quality conditions over time.

We construe the Guidelines to permit analysis of environmental impacts using a baseline other than the environmental setting as it exists when the notice of preparation of an EIR is published or when environmental analysis is begun. The Guidelines state that publication of the notice of preparation of an EIR or the beginning of environmental analysis "will *normally* constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." (Guidelines, § 15125, subd. (a), italics added.) To state the norm is to recognize the possibility of departure from the norm. We see no rational basis for *Sunnyvale*'s constricted view of the word "normally." *Sunnyvale* construed the term as allowing discretion to change the baseline from the times identified in the regulation to an earlier date (e.g., if current conditions temporarily deviate from the usual historic conditions) or to a later date (e.g., if "traffic levels are expected to increase significantly during the environmental review process due to other development actually occurring in the area"), but not to any date later than the date of project approval. (*Sunnyvale*, *supra*, 190 Cal.App.4th at p. 1380.) We do not agree these are the only appropriate scenarios for using a baseline other than present-day conditions irrespective of the nature of the project under analysis.

If "projected traffic levels as of the expected date of project approval" (*Sunnyvale*, *supra*, 190 Cal.App.4th at p. 1380) may be an appropriate baseline, then projected traffic levels as of the expected date the project will come on line, or some later date in the planning horizon, may also be appropriate. The important point, in our view, is the

reliability of the projections and the inevitability of the changes on which those projections are based. The objective is to provide information that is relevant and permits informed decisionmaking. Nothing in the use of a baseline of future projected conditions, not "hypothetical allowable" conditions, has been shown to be inconsistent with the provisions of CEQA or with its purpose. Accordingly, we reject *Sunnyvale*'s conclusion that, as a matter of law, CEQA requires, for "any proposed project," that the significance of its impact on the environment be measured against a baseline of conditions existing, at the latest, at the time the project is approved. (*Sunnyvale*, at p. 1380.) Neither the language nor the purpose of the statute and the Guidelines requires that conclusion in every case.

Petitioner also relies on *Madera*, a case involving a mixed-use development project and whether a proper baseline was used to analyze the project's traffic impacts. In that case, the Fifth District followed *Sunnyvale*, finding its analysis "persuasive" and declining to "set forth a redundant analysis here." (*Madera*, *supra*, 199 Cal.App.4th at p. 89.) In *Madera*, the lead agency asserted that two baselines were used and existing conditions were the primary baseline (*id.* at pp. 92-93), but the Court of Appeal was "unable to state with certainty that existing conditions were used as the baseline . . . ." (*Id.* at p. 95.) Based on *Sunnyvale*, *Madera* adopted the legal conclusions that "[a] baseline used in an EIR must reflect existing physical conditions," and lead agencies "do not have the discretion to adopt a baseline that uses conditions predicted to occur on a date subsequent to the certification of the EIR" (although lead agencies "do have the discretion to select a period or point in time for determining existing physical conditions other than the two points specified in subdivision (a) of Guidelines section 15125, so long as the period or point selected predates the certification of the EIR"). (*Madera*, at pp. 89-90.) *Madera* adds nothing to the *Sunnyvale* analysis, with which we are in fundamental disagreement.

To summarize: We agree with the Expo Authority that there is a "profound difference" between projected conditions supported by substantial evidence and the "hypothetical" or "illusory" conditions discussed in the cases. Population growth, with

its concomitant effects on traffic and air quality, is not hypothetical in Los Angeles County; it is inevitable. Neither *CBE* nor CEQA forbids the use of a future baseline, and an agency's use of discretion in selecting a baseline is expressly reserved in the Guidelines by the use of the word "normally." In a major infrastructure project such as Expo Phase 2, assessment of the significance of environmental effects based on 2009 conditions (or conditions at any point from 2007 to 2010) yields no practical information, and does nothing to promote CEQA's purpose of informed decisionmaking on a project designed to serve a future population. We therefore hold that an agency's use of a projected future baseline, when supported by substantial evidence, is an appropriate means to analyze the traffic and air quality effects of a long-term infrastructure project.[9]

Before we leave this subject, we note that respondents devote a considerable part of their briefs to showing that substantial evidence supports the methodologies and projections used by the Expo Authority to determine the significance of traffic and air quality impacts in this case. We need not dwell on this point at any length, because petitioner does not suggest that the methodologies, forecasts, models, and other data are insufficient to support the projections the Expo Authority has used—but rather only that the Expo Authority should not be permitted to use them. Petitioner has made no effort to demonstrate how the use of projected traffic and air quality conditions as a baseline to measure the impact of this project has precluded or could preclude informed decisionmaking (or, conversely, how the use of current conditions to measure those impacts would or could contribute to informed decisionmaking). In our review of the record, we found the Expo Authority's use of 2030 projections is supported by both

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9 Petitioner also complains that the Expo Authority "elected to use 2030 as the baseline for the [final EIR's] traffic analysis, although operation of the system is expected to begin in 2015," and this "ignores the Project's first fifteen years of impacts." But petitioner did not raise this claim in the administrative proceedings (and does not identify any other commenter who did). In any event, because we find that use of a future baseline is permissible for a major infrastructure project, the decision on whether to use the opening year or a later year within the planning horizon is within the agency's discretion. Petitioner has shown no abuse of that discretion.

substantial evidence and common sense, and is entirely consonant with the EIR's purpose as an informational document. It is only when an EIR "fails to include relevant information and precludes informed decisionmaking and public participation" that a prejudicial abuse of discretion occurs. (See *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 128.) That is not this case.

3. The EIR's Analysis of Traffic Impacts

Petitioner contends the EIR's traffic analysis was inadequate because it failed to address potential traffic impacts on Sepulveda Boulevard, which serves as a de facto alternative route for the I-405 when traffic is bad on the freeway. Petitioner points out that, in response to the draft EIR, the LADOT commented on the at-grade rail crossing at Sepulveda Boulevard, stating that "[i]t must be recognized that Sepulveda Boulevard serves as an alternate route to the Interstate 405 Freeway when incidents occur and the traffic volumes used for analysis do not consider these occurrences."

After the comments were received, however, additional studies and discussions with LADOT occurred, and the at-grade crossing at Sepulveda Boulevard was reconsidered and re-analyzed. California Public Utilities Commission standards and other environmental factors were also taken into consideration, and both at-grade improvements and grade-separation options were discussed. Thus, "as a result of the additional analysis and coordination with LADOT," the final EIR added a third northbound lane on Sepulveda Boulevard between the LRT crossing and Pico Boulevard. In addition, the Expo Authority included an aerial station and grade separation at Sepulveda Boulevard as a design option in the final EIR, "which could be constructed subject to the provision of additional funding by others."

These actions were consistent with the contents of an October 15, 2009 letter from the LADOT summarizing the measures proposed by the Expo Authority concerning grade crossings, including at Sepulveda Boulevard. After concluding that the level of service was acceptable to LADOT, the LADOT concluded: "The queue lengths and delay cited above reflect normal conditions. We note that Sepulveda Boulevard sometimes serves as a *de facto* alternate route for Interstate 405 during freeway incidents.

When this occurs, motorists divert to Sepulveda Boulevard and traffic demand increases dramatically. Accordingly, we encourage consideration of the Design Option and believe that an aerial grade separation at Sepulveda Boulevard would be a better long-term measure than at-grade operation."

In short, the changes rendered the at-grade crossing acceptable to LADOT, although it preferred an aerial grade separation as a long-term measure. Moreover, after the judgment was entered below, the Expo Authority's Board, at a special meeting held on March 18, 2011, adopted a resolution in which it "selected and adopted" the Sepulveda grade-separation design option. (This court granted the Expo Authority's request for judicial notice of the Board's resolution.) Consequently, petitioner's claim the final EIR did not contain a "sufficient degree of analysis" of the traffic impacts on Sepulveda Boulevard "during freeway incidents," assuming it had any merit, has been effectively eliminated.

In its reply brief, petitioner says that providing the grade separation at Sepulveda, but not at Overland, Westwood or Military, "will merely attract more vehicles toward Sepulveda Boulevard" and "may actually exacerbate the traffic impacts resulting from the diversion of traffic during incidents on I-405." This is speculation, unsupported by any citation to the record, and is insufficient to meet petitioner's burden to demonstrate any inadequacy in the final EIR.

4. Growth-inducing Impacts

Petitioner's next claim is that the EIR's analysis of growth-inducing impacts of the project was inadequate.

CEQA Guidelines require an EIR to discuss "the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." (Guidelines, § 15126.2, subd. (d).) The Guidelines explain:

> "Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the

> population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment." (Guidelines, § 15126.2, subd. (d).)

Thus, for example, a transportation project in an isolated or undeveloped area may be considered growth-inducing.

The EIR ultimately concluded that the Expo Phase 2 project would not result in growth-inducing impacts. The EIR explained:

> "The Expo Phase 2 project would be built within a well-developed urban area, where only in-fill development opportunities remain. The project would be located in an area that is already well served by an existing network of electricity, water, sewer, storm drain, and other infrastructure that accommodates existing and planned growth.
>
> "The project would not provide new accessibility but would enhance accessibility by transit, thereby reducing private automobile use. The need for a high-capacity, major transit investment in the Expo Phase 2 community is driven by significant population and employment concentrations, along with continued growth trends in the greater area. The project would accommodate and serve residents and visitors to the project cities and would provide an increased level of public transit service that is consistent with local and regional growth projections and land use/transportation policies. The project also is consistent with local and regional planning to accommodate anticipated corridor growth by reducing VMT [vehicle miles traveled] and other impacts attendant on private automobile use. In fact, the proposed project is the culmination of a planning process that has been underway for over 30 years . . . . Given that the Exposition transit corridor area is a planned and desired land use as reflected in local and regional plans, it would be compatible with the study area's general land use characteristics and would serve to link activity centers within the area. ***Notably, the intensification of land uses around transit station areas with mixed uses and higher densities reflects an embracement of 'smart growth' principles—that projected growth should be focused or directed towards areas with available infrastructure and supportive of reduced vehicle miles traveled, fewer air emissions, and reduced energy consumption.*** Under smart growth principles, this growth that is projected to occur anyway is directed through general plan,

> community plan, and specific plan amendments, and rezonings towards station areas." (Boldface & italics added.)

Petitioner points out that the EIR stated the project "could result in community investment and the development of Transit Oriented Development (TOD) around station areas," and contends that by "failing to discuss the potential impacts of concentrating new development around the planned stations," the EIR's discussion of growth-inducing impacts is "fatally incomplete." Further, the EIR (in its assessment of cumulative impacts) lists past, present, and reasonably foreseeable future projects, and these include a mixed-use construction project (the Casden project) adjacent to the proposed Sepulveda transit station. Thus, petitioner claims, the EIR should have discussed "the potential localized impacts" of the intensification of land uses around transit station areas, such as "traffic, parking, aesthetics, noise, light and glare, etc."

Petitioner ignores the law on the point. "An EIR must analyze the growth-inducing impact of a project, including reasonably foreseeable consequences but not speculative effects." (*Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1265 (*Federation*); see also *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 368-369 (*Napa Citizens*) [an EIR is not required "to make a detailed analysis of the impacts of a project on housing and growth"; "Nothing in the Guidelines, or in the cases, requires more than a general analysis of projected growth."].) "The detail required in any particular case necessarily depends on a multitude of factors, including, but not limited to, the nature of the project, the directness or indirectness of the contemplated impact and the ability to forecast the actual effects the project will have on the physical environment. In addition, it is relevant, although by no means determinative, that future effects will themselves require analysis under CEQA." (*Napa Citizens*, at p. 369.)

The EIR's discussion of growth-inducing impacts (and its conclusion there were none, as the project accommodated projected growth and travel demand rather than inducing it) satisfied the CEQA guideline. First, the purpose and nature of the Expo Phase 2 project "was not to facilitate additional development after the project is

completed" (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 227) or to remove an obstacle to growth. (Guidelines, § 15126.2, subd. (d).) As the EIR notes, the growth in question "is projected to occur anyway" and is "directed through general plan, community plan, and specific plan amendments, and rezonings towards station areas." And, "any future effects of that additional development will undergo CEQA analysis." (*Clover Valley*, at p. 228; see also *Napa Citizens*, *supra*, 91 Cal.App.4th at p. 369.)

Second, nothing in the Guidelines requires the detail petitioner suggests—discussion of "potential localized impacts" such as "traffic, parking, aesthetics, noise, light and glare" from a project (the Casden project) which was not even under environmental review until several months after the draft EIR for the Expo Phase 2 project was circulated. (Cf. *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 74, 75 (*San Franciscans*) [for purposes of cumulative impact analysis, an EIR must consider "other closely related projects that were currently under environmental review," as these are " '[reasonably] foreseeable probable future projects' "]; see also § 21002.1, subd. (e) ["lead agencies shall, in accordance with Section 21100, focus the discussion in the environmental impact report on those potential effects on the environment of a proposed project which the lead agency has determined are or may be significant. Lead agencies may limit discussion on other effects to a brief explanation as to why those effects are not potentially significant."]; § 21100, subd. (c) [the EIR "shall also contain a statement briefly indicating the reasons for determining that various effects on the environment of a project are not significant and consequently have not been discussed in detail in the environmental impact report"].)[10]

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10 Petitioner cites *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1218 (*Bakersfield*) and *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 732-733 (*San Joaquin*), but neither case is relevant to petitioner's contention. *Bakersfield* held that EIR's for two shopping center projects—neither of which considered the other, despite overlapping

In short, petitioner has failed to meet its burden of demonstrating any error in the EIR's analysis of growth-inducing impacts.

5. Cumulative Traffic Impacts

CEQA Guidelines require an EIR to discuss cumulative impacts of a project "when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3)." (Guidelines, § 15130, subd. (a).) " 'Cumulatively considerable' means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (*Id.*, § 15065, subd. (a)(3).) A cumulative impact "is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts." (*Id.*, § 15130, subd. (a)(1).)

The CEQA Guidelines say that several elements are necessary to an adequate discussion of significant cumulative impacts. As relevant here, these include:

> 1. ***Either*** a "list of past, present, and probable future projects producing related or cumulative impacts," ***or*** a "summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect" (Guidelines, § 15130, subd. (b)(1));
>
> 2. "A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available" (Guidelines, § 15130, subd. (b)(4)); and
>
> 3. "A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating

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market areas and shared roadways—were legally inadequate because of "underinclusive and misleading cumulative impacts analysis." (*Bakersfield*, at pp. 1216-1217.) In *San Joaquin*, sewer expansion (for which a separate EIR had been certified) was recognized in the draft EIR for a development project as necessary to the project, "yet was excluded from the description of the development project and its effects ignored" in the final EIR. (*San Joaquin*, at pp. 729-730, 732.) Both cases involved two projects, both of which were undergoing environmental review.

> or avoiding the project's contribution to any significant cumulative effects." (Guidelines, § 15130, subd. (b)(5).)

The Guidelines specifically state that previously approved land use documents, "including, but not limited to, general plans, specific plans, [and] regional transportation plans . . . may be used in cumulative impact analysis." (Guidelines, § 15130, subd. (d).)

The EIR in this case identified the two alternatives permitted by the CEQA Guidelines for discussion of cumulative impacts (the "list of projects" approach and the "summary of projections" approach), and indicated that: "For purposes of this project, a 'blended' cumulative impacts analysis has been conducted based on a summary of projections from SCAG's 2008 RTP [Regional Transportation Plan], Metro's 2009 Long Range Transportation Plan, and the Culver City, Los Angeles and Santa Monica General Plans, together with funded and unfunded improvement projects from the 2008 RTP and Metro's 2009 Long-Range Transportation Plan. In addition, a list of recently proposed or planned projects was evaluated for potential cumulative effects."

With respect to cumulative traffic impacts, the EIR contains no separate analysis, instead referring the reader to the analysis provided in the EIR's discussion of transportation and traffic impacts of the project itself, explaining that the latter analysis was "based upon both existing and future conditions, with and without the project."

Petitioner contends the EIR's analysis of cumulative traffic impacts was inadequate because it failed "to consider the *localized* traffic impacts of related projects and other deficiencies." No "other deficiencies" are identified. Petitioner asserts the EIR does not meet the second and third of the three requirements listed above—that it does not "provide a summary of the expected environmental effects to be produced by the related projects . . . and fails to meaningfully analyze the Project's potential cumulative impacts." Petitioner complains that the EIR "ignores known, related projects that will have direct, localized, cumulative impacts that are not captured by the 'summary of projections,' thereby failing to comply" with the CEQA Guidelines.

Petitioner identifies only one specific deficiency. Petitioner cites the Casden Project—which is identified in the EIR as proposing 265,000 square feet of retail floor

space and 500 residential units, but for which no applications had been filed when the draft EIR was circulated. Petitioner complains that the EIR "made no attempt to actually quantify the traffic generated by the Casden Project or even discuss the potential cumulative traffic impacts" at the highly congested intersection of Pico and Sepulveda Boulevards and, instead, "merely relied on regional traffic volumes and adjusted for assumed trip reduction based on transit ridership, station-area parking and drop-off/pick-up, and trip diversions."[11]

We see no inadequacy in the Expo Authority's approach. The Expo Authority identified the Casden Project along with many others in its "List of Recent Projects Included in the Cumulative Assessment." But no application had been made for that project when the notice of preparation of the Expo Phase 2 project was filed in February 2007, or when the draft EIR was issued in January 2009. On that basis alone, the Expo Authority arguably was not required to consider the Casden Project.

In *San Franciscans*, *supra*, 151 Cal.App.3d at pages 74-75, the court held that " 'foreseeable probable future projects' " included projects "currently under environmental review," and found CEQA was violated when a cumulative impacts

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[11] Respondents assert that we need not consider petitioner's contention, because the claimed failure to analyze adequately the "localized" cumulative traffic impacts at the intersection of Sepulveda and Pico Boulevards was never brought to the Expo Authority's attention during the administrative proceedings. (See § 21177, subd. (a), & fn. 7, *ante*, at p. 15.) It is true that, while petitioner raised many alleged inadequacies in the cumulative impact analysis during the proceedings below, the failure to analyze the impact of the Casden Project on the Sepulveda/Pico intersection was not one of them. But another commenter stated that the draft EIR "fails to mention the impacts of the proposed Casden Project on Sepulveda Boulevard and Pico Boulevard. The construction of this project and Expo Phase 2 will cause a combined negative impact upon the neighborhood surrounding the right-of-way. The impact of the Casden Project must be studied." Still another commenter stated that "The [draft] EIR fails to evaluate known related projects. Specifically, it fails to evaluate interactions with [among a half dozen other items] the Casden project at Exposition/Sepulveda . . . . [¶] This failure renders the [draft] EIR inaccurate and useless as an environmental document." Again, we think the other comments were sufficiently specific to preserve the claim for appeal. (See *Sierra Club v. City of Orange*, *supra*, 163 Cal.App.4th at p. 536.)

analysis is based only on approved projects and projects under construction. (*San Franciscans*, at p. 72.) (While it did not discuss the point, the court apparently rejected the contention that "projects formally announced by developer also should have been considered." (*Id.* at p. 74.)) Petitioner relies on *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1127-1128 (*Gray*), where the court said that "any future project where the applicant has devoted significant time and financial resources to prepare for any regulatory review should be considered as probable future projects for the purposes of cumulative impact." (*Ibid*.) But petitioner fails to note that *Gray* endorsed a reasonable cutoff date for the inclusion of projects in a cumulative analysis: The lead agency "had the discretion to set the date of the application for the current Project as the cutoff date to determine which projects should be included in the cumulative impacts analysis." (*Id.* at p. 1128.)

The more important point, however, is that the EIR's analysis of project impacts included traffic conditions in 2030 with and without the project, relying on projections in SCAG's Regional Transportation Plan, Metro's long-range plan, and the general plans for the relevant municipalities. Consequently, traffic increases and intersection delays based on those plans were indeed taken into account, albeit in a more generalized way than petitioner would prefer.[12] Thus, this is not a case, like *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, where the EIR "avoids analyzing the severity of the problem and allows the approval of projects which, when taken in isolation, appear insignificant, but when viewed together, appear startling." (*Id.* at p. 721.)

Here, the Expo Authority employed the "summary of projections" approach. The EIR's traffic analysis, based as it is on projected traffic conditions in 2030, discloses

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[12] As the Expo Authority stated in responding to comments on the draft EIR, "The Casden project has not yet been approved for construction, and is therefore speculative. The Casden project was listed in the projects considered under Cumulative Impacts. In addition, jobs and housing that would potentially be created by the project are included within the 2030 SCAG Growth Estimates used in the Travel Demand Model."

" 'the severity and significance of the cumulative impacts . . . .' " (*City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 906.) What it does *not* include is a microanalysis of those impacts as they may be affected at a particular intersection by a particular project that was not under environmental review when the draft EIR was circulated. But there is no requirement for such an analysis where the lead agency has used the "summary of projections" approach. Indeed, the Guidelines tell us that the discussion of cumulative impacts "shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness . . . ." (Guidelines, § 15130, subd. (b).) That standard is met here.

6. The Adequacy of Mitigation Measures

Petitioner contends the EIR failed to provide adequate mitigation measures, and improperly deferred the formulation of mitigation measures, in the areas of parking, noise and vibration, public safety, and construction. We summarize the legal requirements, and then discuss each contested area in turn.

When significant effects on the environment have been identified in an EIR, the public agency must make one or more of several possible findings with respect to each significant effect. The agency must find, based on substantial evidence, that changes "have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment"; or that those changes "are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency"; or that mitigation is infeasible and overriding considerations outweigh the significant environmental effects. (§ 21081; Guidelines, § 15091.)

When mitigating changes have been required to avoid the significant effects, the agency must "adopt a reporting or monitoring program for the changes, . . . designed to ensure compliance during project implementation." (§ 21081.6, subd. (a)(1).) And the agency "shall provide that measures to mitigate or avoid significant effects on the

environment are fully enforceable through permit conditions, agreements, or other measures." (§ 21081.6, subd. (b).) "The purpose of these requirements is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded." (*Federation*, *supra*, 83 Cal.App.4th at p. 1261, italics omitted.)

The formulation of specific mitigation measures may be deferred if it is impractical to formulate them at the time of project approval. "Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan." (*Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1275 (*Defend the Bay*); *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029 (*Sacramento Old City*) [" 'for [the] kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . , the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval' "].)

In the discussion of mitigation measures, an EIR "need not be exhaustive or perfect; it is simply required to 'describe feasible measures which could minimize significant adverse impacts.' " (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 696.) "We review the EIR's discussion of mitigation measures by the traditional substantial evidence standard. It is not our task to determine whether adverse effects could be better mitigated." (*Ibid.*)

a. Parking

i. Spillover parking

The EIR concludes that the demand for parking "will exceed the proposed supply at several stations, potentially resulting in some parking intrusion into adjacent neighborhoods. Spillover parking in the neighborhoods around the stations can be expected to occur around all of the stations except the Sepulveda/National." To mitigate

this potentially significant impact, the Expo Authority adopted mitigation measure MM TR-4, providing that:

> "In the quarter mile area surrounding each station where spillover parking is anticipated, a program shall be established to monitor the on-street parking activity in the area prior to the opening of service and shall monitor the availability of parking monthly for six months following the opening of service. If a parking shortage is determined to have occurred (i.e., existing parking space utilization increases to 100 percent) due to the parking activity of the LRT patrons, Metro shall work with the appropriate local jurisdiction and affected communities to assess the need for and specific elements of a permit parking program for the impacted neighborhoods. The guidelines established by each local jurisdiction for the assessment of permit parking programs and the development of community consensus on the details of the permit program shall be followed. Metro shall reimburse the local jurisdictions for the costs associated with developing the local permit parking programs within one-quarter mile of the stations and for the costs of the signs posted in the neighborhoods. Metro will not be responsible for the costs of permits for residents desiring to park on the streets in the permit districts. For those locations where station spillover parking cannot be addressed through implementation of a permit program, alternative mitigation options include time-restricted, metered, or shared parking arrangements. Metro will work with the local jurisdictions to determine which option(s) to implement."

The EIR concluded this mitigation measure would reduce the impacts of station spillover parking to a less than significant level.

Petitioner contends the record does not contain substantial evidence of the "feasibility or effectiveness" of MM TR-4, as there is "no assurance that any such [permit parking] program will ever be formed, or that it would be effective in preventing 'spillover' parking," or that the alternative mitigation options would be implemented or effective. Petitioner further complains the measure is "improper deferral" of mitigation, that residents will have to pay for permits, and that, under *Gray*, *supra*, 167 Cal.App.4th at page 1119, the mitigation measure is inadequate unless it "ensure[s] that residents in the vicinity of LRT stations will retain their ability to park in their neighborhoods in substantially the same manner to which they are currently accustomed." We understand

petitioner's concern, as would any resident of Los Angeles, Culver City or Santa Monica, but we disagree with this contention.

Gray does not establish that these mitigation plans are inadequate. *Gray*, which involved water resources, not parking, disapproved several measures that were proposed to mitigate a decline in water levels in private wells that would result from a proposed mining operation. (*Gray*, *supra*, 167 Cal.App.4th at p. 1115.) One of the measures was to provide bottled water. The court stated that it "defies common sense . . . to conclude that providing bottled water is an effective mitigation measure"; the measure "does not explain how and in what amount the bottled water will be delivered"; landowners had fluctuating, often unpredictable water usage needs; the measure did not explain how the water bottles would be replaced or recycled; and the measure improperly deferred formulation of specific mitigation strategies, as the agency committed itself only to a goal that included no performance standards (rather than to a mitigation strategy). (*Id.* at p. 1118.) The court concluded that "the listed mitigation alternatives, except for the building of a new water system [which had not been studied], cannot remedy the water problems because they would not place neighboring landowners into a situation substantially similar to what the landowners experienced prior to the operation of the mine." (*Id.* at p. 1119.)

The *Gray* case is not analogous to this case. This is not a case where the effectiveness of a mitigation measure "defies common sense." (*Gray*, *supra*, 167 Cal.App.4th at p. 1118.) The change to permit parking for residents in neighborhoods near transit stations makes sense and is "substantially similar" to parking without the need for a permit; it is obviously not the *same*, but residents will still have street parking. We are not persuaded that permit parking will fail to reduce the impact of spillover parking.

Nor do we accept the claim that the measure is inadequate for lack of "assurance" that permit parking programs will be formed and effective in preventing spillover parking. The mitigation measure sets a specific performance standard—monitoring parking activity to determine if LRT activity increases parking utilization to 100

percent—and if it does, Metro undertakes to work with local jurisdictions, to follow their guidelines for permit parking programs, and to reimburse their costs. (See *Defend the Bay, supra*, 119 Cal.App.4th at p. 1275 [deferral of specifics is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered].) We will not assume, as petitioner implicitly suggests, that simply because the Expo Authority cannot *require* a local jurisdiction to adopt a permit program, the mitigation measure is inadequate. (Cf. § 21081 [one of the possible findings an agency may make with respect to a significant effect is that changes mitigating or avoiding the significant effect "are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency"].) Petitioner has not shown any deficiency in the spillover parking mitigation measure.[13]

ii. Removal of street parking

The Expo Phase 2 project will eliminate street parking in some areas along the project corridor. One of these is on the south side of Colorado Avenue between 14th Street and Lincoln Boulevard and on either the north or south side of the street between Lincoln Boulevard and 4th Street. Surveys revealed moderate to intensive use of those spaces with little excess capacity on adjacent side streets, requiring mitigation measures to reduce the impacts of displaced street parking spaces. (The Expo Authority's responses to comments on this issue show that of 56 parking spaces proposed to be

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13 Petitioner cites *Federation*, *supra*, 83 Cal.App.4th at p. 1260, where the court agreed with the contention that there was "no assurance that the mitigation measures will be implemented." But in *Federation,* where the mitigation measures involved improvements in transportation infrastructure requiring the cooperative efforts of several state, local and federal public agencies, in addition to the city (the lead agency) (*id.* at p. 1256), the city admitted that its portion of the cost would far exceed its anticipated revenues (*ibid.*), and "acknowledged . . . that there was great uncertainty as to whether the mitigation measures would ever be funded or implemented." (*Id.* at p. 1261.) Consequently, the court could find no substantial evidence that the mitigation measures would actually be implemented. (*Ibid.*) This is not such a case.

eliminated on the south side of Colorado Avenue between 14th Street and 4th Street, 35 were regularly used.)

The EIR proposed mitigation measures as follows:

> "*MM TR-9* Colorado Avenue. Replacement parking would be required along impacted portions of Colorado Avenue. The potential replacement parking lots are listed below. Additional replacement options could include implementation of diagonal parking on adjacent streets (after extensive neighborhood outreach), or the implementation of design options, which would reduce the extent of parking impacts[.][14]
>
> "*MM TR-9(a)* South side of Colorado Avenue, between 14th Street and 11th Street. Property would have to be acquired to provide replacement parking. Potential parcels on the south side of Colorado Avenue between 18th Street and 16th Street have been identified.
>
> "*MM TR-9(b)* South side of Colorado Avenue, between 11th Street and 4th Street. Property would have to be acquired to provide replacement parking. A potential parcel at the northwest corner of 6th Street and Colorado Avenue has been identified."

The EIR concluded that implementation of these mitigation measures would reduce the impact of displaced parking spaces to less than significant.

Petitioner contends there is no evidence these measures would be feasible, and that the Expo Authority's ability to acquire replacement lots is "purely speculative" because of high land costs. Petitioner again claims there is "no assurance that replacement parking will actually be provided" and, therefore, as in *Federation*, *supra*, 83 Cal.App.4th

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14 The EIR described two design options. First, "[t]he Colorado Parking Retention Design Option would reduce the track centers and sidewalk widths to create room for parking between Lincoln Boulevard and 4th Street along both sides of Colorado Avenue. Impacts to on-street parking along Segment 3a (Colorado) would remain ***less than significant***." Second, "[t]he Colorado/4th Parallel Platform and South Side Parking Design Option would reconfigure the Colorado/4th Street Station so that the platform would be parallel with 4th Street. If implemented, this design option would create room for parking between Lincoln Boulevard and 6th Street along the south side of Colorado Avenue. Impacts to on-street parking along Segment 3a (Colorado) would remain ***less than significant***."

at page 1261, "great uncertainty as to whether the mitigation measures would ever be funded or implemented." But as we have seen (fn. 13 *ante*, at p. 34), in *Federation* the agency "acknowledged . . . that there was great uncertainty as to whether the mitigation measures would ever be funded or implemented." (*Ibid.*) There was no such evidence here, and no such uncertainty.

Petitioner does not challenge the EIR's financial evaluation of the Expo Authority's ability to build the project, which includes allowance for mitigation measures. (See also *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2007) 157 Cal.App.4th 149, 163 ["[h]ere, unlike *Federation*, there is nothing to suggest the mitigation measures will not be implemented"; the appellant pointed to "nothing in *Federation* or any other case that requires the EIR to discuss funding for mitigation measures"].) The parking mitigation measures explicitly state that property "would have to be acquired to provide replacement parking," and parcels have been identified for that purpose. These mitigation measures are not uncertain or speculative, and it is feasible to acquire the identified parcels for parking. Again, petitioner has not met its burden to demonstrate any deficiency.

b. Noise and vibration

Petitioner challenges mitigation measure MM NOI-1, which the EIR states will ensure that operational noise levels will be below the applicable FTA (Federal Transit Administration) impact threshold for moderate noise impact. The measure provides for installation, at certain locations, of sound walls—a mitigation measure widely used on highways and rail transit lines—or, alternatively, the construction of a landscaped berm parallel to the rail line, or some combination of sound wall and berm. This would eliminate the predicted noise impact "[e]xcept where noise impacts are due to special trackwork at crossovers and turnouts . . . ." In these instances (and in the case of sound receivers in high rise apartment buildings), other options were specified as an alternative or supplement to sound walls. The mitigation measure continues:

> "If during Final Engineering or Operations it is determined that measures described above are not practicable or do not provide sufficient noise

> mitigation, the Expo Authority or Metro, as appropriate, shall provide for sound insulation of residences and other noise-sensitive facilities as . . . another alternative that could be used. Sound insulation involves upgrading or replacing existing windows and doors, and weather stripping windows and doors. Installing a mechanical ventilation system may be needed so that windows do not need to be opened for ventilation." (Italics omitted.)

Petitioner objects that, for the situations where the sound walls and berms will *not* suffice, the EIR gives no information "how such improvements [(sound insulation, etc.)] to private structures would actually be 'provided' by Expo or Metro"; there is no evidence "that it would be feasible to do so in all cases"; residents affected would have to keep their windows closed; and the mitigation measures would not mitigate noise impacts while residents are outdoors.

But CEQA does not require a lead agency to detail "how" it will "actually" provide the insulation. (See *Sacramento Old City*, *supra*, 229 Cal.App.3d at pp. 1028-1029 [" 'the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval' "].) The mitigation measure states exactly what the Expo Authority will do, if necessary. The Expo Authority commits in its mitigation monitoring and reporting program to provide sound insulation where needed to meet the applicable noise threshold, and sound insulation is an established method of mitigating noise impacts. Petitioner is mistaken in contending, in reliance on *Gray*, *supra*, 167 Cal.App.4th at pp. 1117-1118 (discussed in part 6.a.i. *ante*, at pp. 32-33), that residents must be "restore[d] . . . to the position that they are currently accustomed to"; mitigation requires impacts to be minimized to less than significant, not eliminated. (See Guidelines, § 15370.)

c. Safety

The EIR acknowledges that emergency vehicles traveling on streets intersecting at-grade crossings may encounter some delay when a light rail vehicle is crossing the street, since emergency vehicles will be unable to cross while the railroad gates are down. Mitigation measure MM SAF-1 addresses this impact, specifying that, before operations begin, Metro must coordinate with the Cities of Los Angeles, Culver City and Santa

Monica; give community safety providers a detailed description of Metro's emergency response procedures; and encourage the cities to update their emergency response procedures to address implementation of the project. The EIR notes, in response to comments, that the Cities of Los Angeles, Pasadena, South Pasadena, and Long Beach have successfully implemented the procedures described in this mitigation measure on other Metro rail lines. Implementation of this measure, the EIR concludes, will render impacts to the delivery of community safety services less than significant.

Petitioner contends there is insufficient evidence the mitigation measure would be effective, and insufficient evidence the cities would "actually implement any of the necessary 'updates' to their emergency response plans," again creating, as in *Federation*, "great uncertainty as to whether the mitigation measures would ever be funded or implemented." (*Federation*, *supra*, 83 Cal.App.4th at p. 1261.) Petitioner's citation to *Federation* is misplaced (see discussion in fn. 13, *ante*, at p. 34), and we see no reason to conclude the cities involved will fail to act to update their emergency procedures to address "any change in circulation patterns associated with the project," just as other municipalities have in the past. (Cf. § 21081; Guidelines, § 15091, subd. (a)(2) [an agency may find that changes that will avoid or lessen a significant environmental effect "are within the responsibility and jurisdiction of another public agency" and "can and should be adopted by such other agency"].) Petitioner has not shown any inadequacy in the Expo Authority's mitigation of potential safety impacts.

d. Construction

The EIR found that construction of the project could result in the closure of one or more lanes of a major/arterial traffic-carrying street for an extended period of time (one month or more) during construction. The Expo Authority proposed three mitigation measures that it concluded would reduce this significant impact to a level less than significant.

First (MM CON-1), the Expo Authority is required to provide "at least one lane of traffic in each direction on access cross streets that are not going to be dead-ended during

construction. If one lane of traffic cannot be maintained, the Expo Authority shall provide a detour route for motorists."

Second (MM CON-2), "Worksite Traffic Control Plans (WTCP) and Traffic Circulation Plans, including identification of detour requirements, will be formulated in cooperation with" the cities and other affected jurisdictions "in accordance with the Work Area Traffic Control Handbook (WATCH) manual and Manual on Uniform Traffic Control Devices (MUTCD) as required by the relevant municipality." The WTCP's "will be based on lane requirements and other special requirements defined by" the LADOT and the other municipalities "for construction within their city and from other appropriate agencies for construction in those jurisdictions." These plans must also "be designed to maintain designated Safe Routes to School wherever possible during times of the year when nearby schools are in session."

Third (MM CON-3), no designated major or secondary highway will be closed to vehicular or pedestrian traffic "except at night or on weekends, unless approval is granted by the jurisdiction in which it is located."

Petitioner contends there is no evidence these measures would be effective or feasible, because (1) there are no standards by which relevant jurisdictions may grant approval for weekday street closures under MM CON-3, and (2) MM CON-2 does not address "the potential safety impacts that may arise where maintaining . . . designated Safe Routes to School would not be possible," and "improperly defers mitigation without including any performance standards," so there is no evidence the measure would be enforceable.

The law does not require that an EIR specify the standards under which different jurisdictions will decide whether or not to approve weekday road closures. The EIR contemplates that major arteries will not be closed during nonweekend and nonevening hours without that approval, which is an acceptable performance standard. Moreover, as the Expo Authority points out, MM CON-3 must be considered in conjunction with the other mitigation measures that address the same impact (closure of major/arterial streets). MM CON-2 contains multiple performance standards that must be satisfied before major

arterial streets may be closed during construction, whether in the evening or otherwise. The Expo Authority is required to comply with the traffic control and traffic circulation plans that are formulated in cooperation with the affected jurisdictions, and these must be formulated in accordance with specified manuals "as required by the relevant municipality." (See *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794 [fuel modification plan to be prepared that must comply with county guidelines and be approved by county is not improper deferral].) Petitioner has demonstrated no inadequacy in the Expo Authority's construction mitigation measures.

7. Project Alternatives

An EIR must "consider alternatives to proposed actions affecting the environment." (§ 21001, subd. (g).) One of the purposes of the EIR is "to identify alternatives to the project . . . ." (§§ 21002.1, subd. (a), 21061 [purpose is "to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project"].) The guideline is feasibility: "[P]ublic agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects . . . ." (§ 21002.)

The " 'statutory requirements for consideration of alternatives must be judged against a rule of reason.' " (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565 (*Goleta Valley*).) "CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts, which in turn must be reviewed in light of the statutory purpose." (*Id.* at p. 566.) An EIR "need not consider every conceivable alternative to a project." (Guidelines, § 15126.6, subd. (a).) An EIR "must consider a reasonable range of alternatives to the project, or to the location of the project, which: (1) offer substantial environmental advantages over the project proposal [(§ 21002)]; and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved." (*Goleta Valley*, at p. 566, italics omitted, citing § 21061.1 & Guidelines, § 15364.) "Among the factors that may be used to eliminate

alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts." (Guidelines, § 15126.6, subd. (c).)

Petitioner contends the EIR here is inadequate because it did not "consider an alternative or design option with grade-separation in Segment 1 (from and including Overland Avenue to Sepulveda Boulevard) . . . ." While the EIR "briefly discussed and rejected the option of grade-separation at Overland Avenue and Westwood Boulevard, this cursory discussion failed to address whether such an alternative or design option could potentially avoid or reduce the impacts of the Project." And, petitioner continues, the record does not support a conclusion that grade separation is infeasible.

We see no inadequacy in the EIR's failure to include a detailed examination of an alternative with grade-separated crossings in Segment 1 instead of at-grade crossings. It is unnecessary to consider "every conceivable alternative" (Guidelines, § 15126.6, subd. (a)), and the EIR evaluated every at-grade crossing in each of the LRT alternatives. We do not find the EIR's discussion of grade separation at Overland and Westwood to be "cursory." The EIR discussed a trench option (underground grade separation) and an aerial structure, and concluded grade separation was unnecessary to mitigate significant impacts, and indeed would create other environmental impacts. The *summary* of its grade-separation analysis was this:

> "In summary, the proposed at-grade alignment at Overland Avenue and Westwood Boulevard could operate safely and minimize impacts to a less-than-significant level, as required by CEQA. As such, a grade separation in these locations would not be needed to mitigate significant impacts, and if anything, would generate other environmental impacts. Construction impacts associated with a grade separation at Overland Avenue and Westwood Boulevard would be more extensive and disruptive to the adjacent community and nearby school. In addition, grade separating Overland Avenue and Westwood Boulevard would substantially increase costs, requiring more local funding and reducing the project's overall cost effectiveness with respect to [Federal Transit Administration] standards. Further, the at-grade crossings would be consistent with Metro's policy guidance for evaluating grade crossings relative to safety, traffic, and other considerations.

> "As a result of the community impacts, constructability issues, and cost implications, the Expo Phase 2 project objectives are better accomplished and CEQA significance thresholds are achieved with an at-grade configuration of both Overland Avenue and Westwood Boulevard. Therefore, a trench under Overland Avenue and Westwood Boulevard is not recommended to be retained in the [final EIR] for further consideration, nor is an aerial structure."[15]

In short, petitioner has not shown that detailed consideration of an alternative with grade-separated crossings was required, or that such an alternative might have offered "substantial environmental advantages over the project proposal . . . ." (*Goleta Valley, supra*, 52 Cal.3d at p. 566; see also *Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1177-1178 ["The range of alternatives is governed by the 'rule of reason,' which requires only an analysis of those alternatives necessary to permit a reasoned choice."].) Every at-grade crossing was evaluated in connection with other alternatives, and the impacts of the project were mitigated to a less than significant level. The "rule of reason" governs (*Goleta Valley, supra*, 52 Cal.3d at p. 576), and each case "must be evaluated on its facts . . . ." (*Id.* at p. 565.) On this record, we conclude the Expo Authority evaluated a reasonable range of alternatives.

8. Recirculation

Petitioner argues that the final EIR reflected "major changes" to the project made after circulation of the draft EIR, requiring recirculation of the EIR in draft form for further public comment.

CEQA requires recirculation and opportunity for comment before certification of an EIR when "significant new information" is added. (§ 21092.1.) The law on when

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[15] The trench option involved disruption of existing storm drains and construction of a pump station or an inverted siphon; creation of a large depressed area, which could become flooded in the event of a major storm, thus requiring flood proofing; a substantial increase in construction impacts; and significantly higher costs. The visual impacts of an aerial structure would be significantly greater, as would its construction impacts, and an aerial structure would also have greater costs and worse cost effectiveness.

recirculation is required was settled in *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112 (*Laurel Heights II*). There, the court concluded that "the addition of new information to an EIR after the close of the public comment period 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." (*Id.* at p. 1129.)

Laurel Heights II continued: "[R]ecirculation is not required where the new information added to the EIR 'merely clarifies or amplifies [citations] or makes insignificant modifications in [citation] an adequate EIR.' [Citation.] On the other hand, recirculation is required, for example, when the new information added to an EIR discloses: (1) a new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented [citation]; (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance [citation]; (3) a feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project's proponents decline to adopt [citation]; or (4) that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless [citation]." (*Laurel Heights II*, *supra*, 6 Cal.4th at pp.1129-1130.)

The substantial evidence standard governs the lead agency's decision not to recirculate an EIR, with reasonable doubts resolved in favor of the administrative decision. (*Laurel Heights II*, *supra*, 6 Cal.4th at p. 1135.)

Petitioner contends "significant new information" was added to the final EIR, including new information on grade separation at various intersections; signal phasing at the intersection of Westwood Boulevard and Exposition Boulevard North; parking; and

noise impacts (all described, *post*).[16] None of the added information discloses "a new substantial environmental impact," or a "substantial increase in the severity" of an impact of the project. (*Laurel Heights II*, *supra*, 6 Cal.4th at p. 1130; Guidelines, § 15088.5, subd. (a)(1), (2).) As the trial court pointed out, "[i]f anything, the information added (five additional sound walls, signal phasing, and parking surveys) served to lessen the severity of an impact." Substantial evidence supports the Expo Authority's decision not to recirculate the EIR before certification. We address each of petitioner's claims in turn.[17]

Grade separation. Petitioner points out that, after circulation of the draft EIR, additional studies were prepared further evaluating grade separation at various intersections; these were discussed in the final EIR, which indicates that the studies "resulted in changes to the project, including modifications to impacts and mitigation measures." The changes included grade separation (elevation) at Centinela Avenue, and a design option for grade separation using an aerial structure at Sepulveda Boulevard (subsequently adopted by the Expo Authority). Petitioner says there was no meaningful opportunity to comment on the studies and conclusions. But that is not the standard for recirculation of an EIR; the question is whether the new information disclosed a substantial adverse effect (or increase in severity), in which case the public *should* have

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[16] Petitioner also recites, in its list of "major changes," two other items: the addition of a third northbound lane on Sepulveda Boulevard and a new design option for changes to the Santa Monica maintenance facility. Petitioner does not elaborate on these items and makes no argument as to why or how these changes show new significant environmental impacts or a substantial increase in the severity of an impact, so we will not consider them.

[17] Petitioner also contends recirculation was required because the draft EIR was, as stated in Guideline section 15088.5, subdivision (a)(4), "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." This contention is based on the "fail[ure] to evaluate grade-separated alternatives from, and including, Overland Avenue to Sepulveda Boulevard." We have already rejected the contention that the Expo Authority was required to include such an alternative (part 7, *ante*, at pp. 41-42).

an opportunity to comment. That is not the case here. The additional evaluations and analyses were conducted in response to public comments. The grade separation at Centinela and the design option for grade separation at Sepulveda, adopted as a result of those new studies, were not "new significant environmental impact[s]" that would result from the project or a "substantial increase in the severity" of an impact, upon which the public should have had an opportunity to comment. (Guidelines, § 15088.5, subd. (a)(1), (2).) On the contrary, they were improvements to traffic impacts at those locations. Petitioner cites nothing in its briefs that suggests otherwise.[18]

Signal phasing. After the draft EIR was circulated, signal phasing was refined at the intersection of Westwood Boulevard and Exposition Boulevard North, resulting in revisions in the level of service and delay. The draft EIR showed, during the morning peak hour, an "A" level of service with a delay of only four seconds; the final EIR shows a "D" level of service and a delay of 38 seconds. For the afternoon peak hour, the level of service changed from "B" to "C" and the delay changed from 10.9 seconds to 23.4

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[18] For the first time in its reply brief, petitioner suggests that the new design option for an aerial station at Sepulveda will have adverse visual impacts, and for this proposition it cites analyses of elevated grade-separations at other locations in other LRT alternatives (including a 5.5 mile-long elevated structure) that were rejected. Even if the point had not been waived by failing to raise it in its opening brief, the analyses petitioner cites are irrelevant to consideration of an entirely different aerial structure. The final EIR concluded the structure would result in less than significant visual impacts, stating: "Within Visual Character Area C, the Exposition [right-of-way] is screened from view by the residences by use of heavy landscaping in this area. The aerial structure would offer passing motorists using Sepulveda Boulevard highly visible but fleeting views of the aerial structure. Residents to the south along Exposition Boulevard would have the greatest visibility of the aerial structure; however, these views would be screened as feasible as landscaping would be incorporated to screen the Expo [right-of-way] from view, as would other design features specified by the *Metro Design Criteria* to reduce visual impacts. Therefore, implementation of the Sepulveda Grade Separation Design Option would not result in a degradation of the area, and, as such, introduction of the Sepulveda Grade Separation Design Option would result in *less than significant* impacts."

seconds. Petitioner contends these changes constituted a "substantial increase in the severity of an environmental impact," requiring recirculation.

Petitioner has failed to consider the entirety of the recirculation standard. As *Laurel Heights II* and the Guidelines make clear, recirculation is required when the new information added to an EIR discloses a substantial increase in the severity of an environmental impact "*unless mitigation measures are adopted that reduce the impact to a level of insignificance . . . .*" (*Laurel Heights II*, *supra*, 6 Cal.4th at p. 1130, italics added; Guidelines, § 15088.5, subd. (a)(2).) Even with the increase in the average delay at the intersection of Westwood and Exposition Boulevards, the intersection will operate within the impact threshold identified in the draft EIR as less than significant: the impact is significant "if the project traffic is projected to cause deterioration in level of service to LOS E or worse." Petitioner contends this added "significant new information" on "the availability of, and restrictions on, the 'potential replacement options' that had been identified in the [draft EIR] for the loss of on-street parking spaces along Sepulveda Boulevard, Westwood Boulevard, and Overland Avenue." According to petitioner, this new information "undermines" the conclusion that the project would have a less than significant impact on the supply of on-street parking along those three streets. But that is all petitioner says. Petitioner fails even to identify the nature of the new information to which it objects, much less to explain how that new information would cause a "new significant environmental impact" or cause a "substantial increase in the severity" of an impact. (Guidelines, § 15088.5, subd. (a)(1), (2).) Under these circumstances, petitioner has waived the issue. (See *Inyo Citizens for Better Planning v. Inyo County Bd. of Supervisors* (2009) 180 Cal.App.4th 1, 14 [" '[w]e are not required to search the record to ascertain whether it contains support for [petitioner's] contentions' "; "the issue, to the extent one has been raised, is waived"].)

Petitioner also points out that in the final EIR, a proposed parking lot at the Colorado/4th Street station that had been in the draft EIR was eliminated. The final EIR concludes that the approximately 215-space demand for parking at the station could be accommodated in adjacent existing public parking facilities in downtown Santa Monica.

Finally, petitioner complains of an added design option that, if implemented, would permit the elimination of a proposed 170-space "park-and-ride" lot at the Expo/Westwood station. But petitioner identifies no reason to believe this option would alter the conclusions reached after the additional parking surveys were performed: that demand for replacement parking for removed spaces could be accommodated in various ways including permit parking. Further, the final EIR indicates that if this design option is used, "[t]o address community concerns regarding the loss of on-street parking along Westwood Boulevard, 20 parking spaces would be dedicated to neighborhood residents east of Westwood Boulevard and north of the LRT line." The conclusion was that impacts would remain less than significant. Again, no adverse impact is disclosed by the added design option.

Noise. Petitioner complains that new information was added to the final EIR concerning mitigation measures for noise impacts. This consists of information showing that (a) the number of receptors that will be moderately impacted by noise will increase from 162 to 171, and the number severely impacted will increase from 49 to 67; (b) studio uses along the Sepulveda-Cloverfield segment will be severely impacted by noise; and (c) as a result of the increased severity of noise impacts, the final EIR identifies five additional locations requiring soundwalls as mitigation.[19]

Petitioner complains the public was denied the opportunity to comment "on the efficacy and potential impacts of these additional sound walls, as well as potential mitigation measures to address such impacts." Again, this contention misconstrues the meaning of "significant new information." The Expo Authority conducted additional noise testing and analysis in more locations in response to comments on the draft EIR, focusing on sensitive receptors including studios, schools and residential areas. That

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[19] Petitioner also asserts there was new information that station public address systems may cause significant noise impacts during nighttime hours. But the final EIR stated that "[w]ith proper design of the public address systems and the automatic volume adjustment, the noise from the PA system should not generate any adverse effects in communities near the stations."

further analysis identified additional receptors that were affected, but with the addition of five soundwalls—the same established mitigation technique identified in the draft EIR—the noise levels "will be below the applicable FTA impact threshold for moderate noise impact."

New information requires recirculation of the EIR if it shows a "substantial increase in the severity of an environmental impact . . . unless mitigation measures are adopted that reduce the impact to a level of insignificance." (Guidelines, § 15088.5, subd. (a)(2).) So, even if one concludes the increase in the number of affected receptors amounted to a substantial increase in the severity of the noise impacts, mitigation measures were adopted (the additional soundwalls) reducing the impact to less than significant. And petitioner does not suggest how or why any of the additional soundwalls might have a significant environmental impact. Accordingly, recirculation was not required. (See *Laurel Heights II*, *supra*, 6 Cal.4th at p. 1132 ["the Legislature did not intend to promote endless rounds of revision and recirculation of EIR's"; recirculation "was intended to be an exception, rather than the general rule"].)

DISPOSITION

The judgment is affirmed. Respondents shall recover their costs on appeal.

CERTIFIED FOR PARTIAL PUBLICATION

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.