

## MEMORANDUM

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**To:** Chi Wai Chan, City of Chino  
**From:** Alex Hardy and Hayley Rundle, Dudek  
**Subject:** Benson Reservoir Replacement and Improvements Project CEQA Public Review Information  
**Date:** May 19, 2026

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# 1 Introduction to Responses to Comments

## 1.1 Background

The City of Chino (City) prepared an Initial Study and Mitigated Negative Declaration (MND) to evaluate potential environmental impacts resulting from implementation of the proposed Benson Reservoir Replacement and Improvements Project (project). This MND was prepared pursuant to the California Environmental Quality Act (CEQA), Public Resources Code 21000-21189 and CEQA Guidelines (14 California Code of Regulations Sections 15000-15387).

The City provides potable water service to approximately 89,000 customers through 23,000 active metered service connections. One source of the City's water supply is the Benson Water Treatment Plant (WTP). The project entails constructing and operating a replacement reservoir for the existing Benson Reservoir within the City's Benson WTP complex, connecting the replacement reservoir to the system, and demolishing the existing reservoir. The replacement reservoir would be a concrete cylindrical tank located in the northwestern corner of the site. The replacement reservoir is planned to have a capacity of 7.85 million gallons (MG), an increase in size from the existing 1.5 MG reservoir. The larger reservoir would expand the City's water-storage capabilities and enhance the system's operational flexibility, furthering the City's ability to provide a reliable source of water to its customers. The increase in size would be realized by constructing a tank with a larger diameter (172 feet) and taller height (58.25 feet). Additional site improvements would be constructed to connect the replacement reservoir to the City's water system and enable proper operation and maintenance of the facility.

## 1.2 CEQA Public Review and Hearing Notice

The City made the MND available for a 30-day public review period, from April 20, 2026, to May 20, 2026, pursuant to State CEQA Guidelines Section 15073(a). The City prepared a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) and filed it with the State of California Governor's Office of Land Use and Climate Innovation (LCI) on March 11, 2026. LCI assigned the MND State Clearinghouse Number 2026030443. The City posted the NOI at the San Bernardino Clerk's Office on April 13, 2026, and published the NOI in the local newspaper.

## 1.3 Public Comments on the MND

During the public review period, the City received one comment letter. The comment letter is numbered in order to aid in organizing the response that follows this section.

- Comment Letter 1: South Coast Air Quality Management District (South Coast AQMD); Sam Wang, Program Supervisor, CEQA IGR; April 10, 2026

A responses to the comment received during the public review period is provided in Section 2.

## 1.4 Consideration and Adoption of the Initial Study and Mitigated Negative Declaration

According to Section 15074 of the CEQA Guidelines, the City shall “consider the proposed Mitigated Negative Declaration...together with any comments received during the public review process. The decision-making body shall adopt the proposed Mitigated Negative Declaration...only if it finds on the basis of the whole record before it (including the Initial Study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City’s independent judgment and analysis.” The City of Chino Planning Commission will consider the MND and public comments on the MND when it considers approval of the Benson Reservoir Replacement and Improvements Project.

## 2 Responses to Comments Received During the Public Review Period

This section presents the City’s responses to comments received during the public review period.

### Response to Letter 1 – South Coast Air Quality Management District (April 10, 2026)

Response to Comment 1-1: The comment states that if the project would require the use of new stationary and portable sources, such as emergency generators, fire water pumps, boilers, etc, an air permit from the South Coast Air Quality Management District (South Coast AQMD) would be required. The comment also discusses potentially applicable rules that the project would need to comply with and outlines procedures for a CEQA Responsible Agency. The project does not propose to implement any new stationary and/or portable sources that emit air emissions and, therefore, would not require air permits from South Coast AQMD. Additionally, as discussed in Section 3.3, Air Quality, of the MND, emissions generated during construction and operation of the project are subject to the rules and regulations of the South Coast AQMD, such as Rule 403, which was represented in the air quality modeling.

### 3 Comment Letter

Comment Letter 1



SENT VIA E-MAIL:  
[cchan@cityofchino.org](mailto:cchan@cityofchino.org)  
Chi Wai Chan, Associate Engineer  
13220 Central Avenue  
Chino, California 91710

April 10, 2026

**Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Benson Reservoir Replacement and Improvements Project (Proposed Project)**  
**(SCH No: 2026030443)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciate the opportunity to review the above-mentioned document. The City of Chino is the California Environmental Quality Act (CEQA) Lead Agency for the Proposed Project. To provide context, South Coast AQMD staff have provided a brief summary of the project information and prepared the following comments which are organized by topic of concern.

Summary of Proposed Project Information in the Draft IS/MND

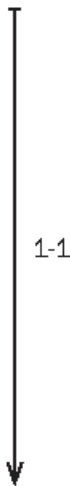
Based on the Draft IS/MND, the Proposed Project consists of constructing a replacement concrete cylindrical reservoir (172 feet in diameter and 58.25 feet tall) with a storage capacity of 7.85 million gallons on a 4.5-acre site, connecting it to the City's water system, and demolishing the existing 1.5-million-gallon reservoir within the Benson Water Treatment Plant complex. Based on a review of aerial photographs, South Coast AQMD staff identified that the nearest sensitive receptor (e.g., single-family residences) as being located across South Benson Avenue, east of the project site and adjacent to the northwest corner. Construction is anticipated to begin in Fall 2027, with a total construction duration of approximately 12 months. The Proposed Project is located at 11840 South Benson Avenue in Chino.

South Coast AQMD Comments

*South Coast AQMD Air Permits and Role as a Responsible Agency*

If implementation of the Proposed Project would require the use of new stationary and portable sources, including but not limited to emergency generators, fire water pumps, boilers, etc., air permits from South Coast AQMD will be required. The final CEQA document, whether a Draft IS/MND or EIR, should include a discussion about the potentially applicable rules that the Proposed Project needs to comply with. Those rules may include, for example, Rule 201 – Permit to Construct,<sup>1</sup> Rule 203 – Permit to Operate,<sup>2</sup> Rule 401 – Visible Emissions,<sup>3</sup> Rule 402 – Nuisance,<sup>4</sup> Rule 403 – Fugitive Dust,<sup>5</sup> Rule 1110.2 – Emissions from Gaseous and Liquid Fueled

<sup>1</sup> South Coast AQMD. Rule 201 available at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-ii/rule-201.pdf>  
<sup>2</sup> South Coast AQMD. Rule 203 available at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-ii/rule-203.pdf>  
<sup>3</sup> South Coast AQMD. Rule 401 available at: <https://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-401.pdf>  
<sup>4</sup> South Coast AQMD. Rule 402 available at: <https://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-402.pdf>



Chi Wai Chan, Associate Engineer

2

April 10, 2026

Engines,<sup>6</sup> Rule 1113 – Architectural Coating,<sup>7</sup> Rule 1166 – Volatile Organic Compound Emissions from Decontamination of Soil,<sup>8</sup> Rule 1179 – Publicly Owned Treatment Works Operations,<sup>9</sup> Regulation XIII – New Source Review,<sup>10</sup> Rule 1401 – New Source Review of Toxic Air Contaminants,<sup>11</sup> Rule 1466 – Control of Particulate Emissions from Soils with Toxic Air Contaminants,<sup>12</sup> Rule 1470 – Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines,<sup>13</sup> and etc. It is important to note that when air permits from South Coast AQMD are required, the role of South Coast AQMD would change from a Commenting Agency to a Responsible Agency under CEQA. In addition, if South Coast AQMD is identified as a Responsible Agency, per CEQA Guidelines Sections 15086, the Lead Agency is required to consult with South Coast AQMD.

CEQA Guidelines Section 15096 sets forth specific procedures for a Responsible Agency, including making a decision on the adequacy of the CEQA document for use as part of the process for conducting a review of the Proposed Project and issuing discretionary approvals. Moreover, it is important to note that if a Responsible Agency determines that a CEQA document is not adequate to rely upon for its discretionary approvals, the Responsible Agency must take further actions listed in CEQA Guideline Section 15096(e), which could have the effect of delaying the implementation of the Proposed Project. In its role as CEQA Responsible Agency, the South Coast AQMD is obligated to ensure that the CEQA document prepared for this Proposed Project contains a sufficient project description and analysis to be relied upon in order to issue any discretionary approvals that may be needed for air permits. South Coast AQMD is concerned that the project description and analysis in its current form in the Draft IS/MND is inadequate to be relied upon for this purpose.

For these reasons, the final CEQA document should be revised to include a discussion about any and all new stationary and portable equipment requiring South Coast AQMD air permits, provide the evaluation of their air quality and greenhouse gas impacts, and identify South Coast AQMD as a Responsible Agency for the Proposed Project as this information will be relied upon as the basis for the permit conditions and emission limits for the air permit(s). Please contact South Coast AQMD’s Engineering and Permitting staff at (909) 396-3385 for questions regarding what types of equipment would require air permits. For more general information on permits, please visit South Coast AQMD’s webpage at <https://www.aqmd.gov/home/permits>.

Conclusion

The Lead Agency is recommended to revise the CEQA analysis to address the aforementioned comments and provide the necessary evidence to sufficiently support the conclusions reached. If the requested information and analysis are not included in the final CEQA document, either the Final IS/MND or other type of CEQA document, the Lead Agency should provide reasons for



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<sup>5</sup> South Coast AQMD. Rule 403 available at: <https://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-403>  
<sup>6</sup> South Coast AQMD. Rule 1110.2 available at: [https://www.aqmd.gov/docs/default-source/rule-book/reg-xi/r1110\\_2.pdf](https://www.aqmd.gov/docs/default-source/rule-book/reg-xi/r1110_2.pdf)  
<sup>7</sup> South Coast AQMD. Rule 1113 available at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-xi/r1113.pdf>  
<sup>8</sup> South Coast AQMD. Rule 1166 available at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1166.pdf>  
<sup>9</sup> South Coast AQMD. Rule 1179 available at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-xi/rule-1179.pdf>  
<sup>10</sup> South Coast AQMD. Regulation XIII available at: <https://www.aqmd.gov/home/rules-compliance/rules/scaqmd-rule-book/regulation-xiii>  
<sup>11</sup> South Coast AQMD. Rule 1401 available at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1401.pdf>  
<sup>12</sup> South Coast AQMD. Rule 1466 available at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1466.pdf>  
<sup>13</sup> South Coast AQMD. Rule 1470 available at: <https://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1470.pdf>

Comment Letter 1

Chi Wai Chan, Associate Engineer

3

April 10, 2026

not doing so. Pursuant to California Public Resources Code Section 21092.5(b) and CEQA Guidelines Section 15074, prior to approving the Proposed Project, the Lead Agency shall consider the IS/MND for adoption together with any comments received during the public review process and notify each public agency when any public hearings are scheduled. Please provide South Coast AQMD with written responses to all comments contained herein prior to the adoption of the Final IS/MND. When responding to issues raised in the comments, detailed reasons supported by substantial evidence in the record explaining why specific comments and suggestions are not accepted must be provided. In addition, if the Lead Agency decides to adopt the Final IS/MND, please provide South Coast AQMD with a notice of any scheduled public hearing(s).

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Thank you for the opportunity to provide comments. South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Sahar Ghadimi, Air Quality Specialist, at [sghadimi@aqmd.gov](mailto:sghadimi@aqmd.gov) should you have any questions.

Sincerely,  
*Sam Wang*  
Sam Wang  
Program Supervisor, CEQA IGR  
Planning, Rule Development & Implementation

SW:SG  
SBC260326-10  
Control Number

**PUBLIC COMMENT PUBLIC HEARING ITEM #6**

**From:** Grant Schmidt [REDACTED] >  
**Sent:** Tuesday, May 19, 2026 4:35 PM  
**To:** Staar, Maria <MStaar@cityofchino.org>  
**Subject:** Re: [EXT EMAIL] Re: Riverside/Magnolia Housing project

Hello Maria. I was looking through the agenda for the meeting tomorrow, and I saw that the developer is asking for a waiver on undergrounding the utilities for the Riverside Dr project.

I was kinda surprised by that, considering the safety risk and detrimental community impact. I'd like to be on record as being opposed to this waiver being granted. It seems like a very reasonable and responsible requirement by the City that the utilities be underground for the health and safety of current and future residents.

Thank you,

Grant Schmidt

**[EXT EMAIL] public comment re item 6 for tonight's Planning Commission hearing**

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**From** James Lloyd <james@calhdf.org>

**Date** Wed 5/20/2026 12:16 PM

**To** Planning <Planning@cityofchino.org>

**Cc** City Clerk <cityclerk@cityofchino.org>; Fred Galante <fgalante@awattorneys.com>; Administration <Administration@cityofchino.org>; Ireich@cityofchino.gov <Ireich@cityofchino.gov>

 1 attachment (241 KB)

Chino - Riverside Drive and Magnolia Avenue - HAA Letter.pdf;

Dear Chino Planning Commission,

The California Housing Defense Fund submits the attached public comment re item 6 for tonight's Planning Commission hearing, the proposed 100-unit housing development project located at Riverside Drive and Magnolia Avenue, which includes 10 moderate-income units.

Sincerely,

James M. Lloyd

Director of Planning and Investigations

California Housing Defense Fund

[james@calhdf.org](mailto:james@calhdf.org)

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**EXTERNAL EMAIL:** Please verify sender email. If unknown, **DO NOT** open links/attachments. **NEVER** give out your user ID or password for any reason!



May 20, 2026

City of Chino  
13220 Central Avenue  
Chino, CA 91710

**Re: Proposed Housing Development Project at Riverside Drive and Magnolia Avenue**

**To: [Planning@cityofchino.org](mailto:Planning@cityofchino.org)**

**Cc: [Ireich@cityofchino.gov](mailto:Ireich@cityofchino.gov); [Cityclerk@cityofchino.org](mailto:Cityclerk@cityofchino.org); [fgalante@awattorneys.com](mailto:fgalante@awattorneys.com); [administration@cityofchino.org](mailto:administration@cityofchino.org)**

Dear Chino Planning Commission,

The California Housing Defense Fund (CalHDF) submits this letter to remind the City of its obligation to abide by all relevant state laws when evaluating the proposed 100-unit housing development project located at Riverside Drive and Magnolia Avenue, which includes 10 moderate-income units. These laws include the Housing Accountability Act (HAA), the Density Bonus Law (DBL), AB 130, and California Environmental Quality Act (CEQA) guidelines.

The HAA provides the project legal protections. It requires approval of zoning and general plan compliant housing development projects unless findings can be made regarding specific, objective, written health and safety hazards. (Gov. Code, § 65589.5, subd. (j).) The HAA also bars cities from imposing conditions on the approval of such projects that would reduce the project's density unless, again, such written findings are made. (*Ibid.*) As a development with at least two-thirds of its area devoted to residential uses, the project falls within the HAA's ambit, and it complies with local zoning code and the City's general plan. Increased density, concessions, and waivers that a project is entitled to under the DBL (Gov. Code, § 65915) do not render the project noncompliant with the zoning code or general plan, for purposes of the HAA (Gov. Code, § 65589.5, subd. (j)(3)). The HAA's protections therefore apply, and the City may not reject the project except based on health and safety standards, as outlined above. Furthermore, if the City rejects the project or impairs its feasibility, it must conduct "a thorough analysis of the economic, social, and environmental effects of the action." (*Id.* at subd. (b).)

CalHDF also writes to emphasize that the DBL offers the proposed development certain protections. The City must respect these protections. In addition to granting the increase in residential units allowed by the DBL, the City must not deny the project the proposed waivers and concessions with respect to side frontback, side setback, rear setback, height and location of fence and wall, outdoor living area, common open space, private open space, floor plates, and undergrounding of utility devices. If the City wishes to deny requested waivers, Government Code section 65915, subdivision (e)(1) requires findings that the waivers would have a specific, adverse impact upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. If the City wishes to deny requested concessions, Government Code section 65915, subdivision (d)(1) requires findings that the concessions would not result in identifiable and actual cost reductions, that the concessions would have a specific, adverse impact on public health or safety, or that the concessions are contrary to state or federal law. The City, if it makes any such findings, bears the burden of proof. (Gov. Code, § 65915, subd. (d)(4).) Of note, the DBL specifically allows for a reduction in required accessory parking in addition to the allowable waivers and concessions. (*Id.* at subd. (p).) Additionally, the California Court of Appeal has ruled that when an applicant has requested one or more waivers and/or concessions pursuant to the DBL, the City “may not apply any development standard that would physically preclude construction of that project as designed, even if the building includes ‘amenities’ beyond the bare minimum of building components.” (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 775.)

Of note, it appears that the City may choose to deny the requested concession for undergrounding of utility lines. This would be a mistake. Concessions for undergrounding of utilities are routinely granted all over the state, and there is no basis in the DBL for the City to deny such a concession. To deny the concession, the City may not simply cite the fact that it made legislative findings when adopting its undergrounding ordinance. Rather, it must make findings that the concession would create a specific adverse impact and that there is no way to avoid the specific adverse impact. (Gov. Code, § 65915, subdivision (d)(1)(B).) “Specific, adverse impact” means “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (Gov. Code, § 65589.5, subd. (d)(2).) This is the HAA standard for health and safety impacts, which is highly challenging to satisfy.

This City must quantify the impact, it must show that it is significant, and it must show that it is unavoidable. The City has not done any of these. Rather, the City, in its staff report and memorandum, has simply cited previously made legislative findings rather than discuss how the instant project would itself make a health and safety impact.

Additionally, the standards themselves are not objective, which is a requirement for any standard to be the basis of health and safety findings pursuant to the HAA. City code section

13.32.050(D): “In the exercise of the discretion granted to the city engineer herein, he or she shall determine which utility devices shall be placed underground ...” However, the HAA defines “objective” as “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (Gov. Code, § 65589.5, subd. (h)(9).” Because the City’s underground ordinance relies entirely on the discretion of the City Engineer, it violates the HAA’s requirement to involve “no personal or subjective judgment by a public official.” (See *ibid.*) Additionally, because it is so entirely dependent on the City Engineer’s discretion, it is not “knowable by both the development applicant or proponent and the public official.” (See *ibid.*)

Furthermore, Code section 13.32.070(E) allows property owners to just buy out of the requirement. Given this, and the fact that the development site is surrounded by existing development that was developed with overhead utilities, it is clear that these health and safety concerns are simply without basis. If the City is already allowing property owners to buy out of the requirement at the discretion of the City Engineer, there is no way that these standards rise to the level of health and safety impacts pursuant to the HAA.

Finally, the project is exempt from state environmental review pursuant to section 15332 of the CEQA Guidelines. The project is also eligible for a statutory exemption from CEQA pursuant to AB 130 (Pub. Res. Code, § 21080.66). Caselaw from the California Court of Appeal has affirmed that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.)

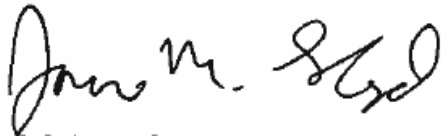
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit: it will bring new customers to local businesses; it will grow the City’s tax base; and it will reduce displacement of existing residents by reducing competition for existing housing. While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the City to approve it, consistent with its obligations under state law.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at [www.calhdf.org](http://www.calhdf.org).

Sincerely,



Dylan Casey  
CalHDF Executive Director



James M. Lloyd  
CalHDF Director of Planning and Investigations