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Notice of Preparation

Date of Notice: December 4, 2020

PUBLIC NOTICE OF PREPARATION OF A PROGRAM ENVIRONMENTAL IMPACT REPORT AND A SCOPING MEETING

PLANNING DEPARTMENT

PUBLIC NOTICE: The City of San Diego (City) as the Lead Agency has determined that the project described below will require the preparation of a Program Environmental Impact Report (PEIR) in compliance with the California Environmental Quality Act (CEQA). This Notice of Preparation (NOP) of a PEIR and a Scoping Meeting was publicly noticed and distributed on December 4, 2020. This notice was published in the SAN DIEGO DAILY TRANSCRIPT and placed on the City of San Diego website at:

http://www.sandiego.gov/city-clerk/officialdocs/notices/index.shtml

and on the City's CEQA website at: https://www.sandiego.gov/ceqa/draft.

PROJECT NAME:	Polystyrene Ordinance
APPLICANT:	City of San Diego Environmental Services Department
COMMUNITY PLAN AREA:	Citywide
COUNCIL DISTRICT:	Citywide

PROJECT DESCRIPTION: The City is proposing an ordinance that would amend the San Diego Municipal Code (SDMC) to restrict the use of polystyrene products throughout the City. The proposed ordinance includes a ban of the distribution of egg cartons, food service ware, or food trays that are made, in whole or in part, from polystyrene foam. Items that are made, in whole or in part, from polystyrene foam that is not wholly encapsulated or encased within a non-polystyrene foam material (e.g., coolers, ice chests, or similar containers; pool or beach toys; or dock floats, mooring buoys, or anchor or navigation markers) will also be banned from distribution. Products that are made, in whole or in part, from polystyrene foam will be banned from distribution in or at facilities within the City. The proposed ordinance will allow the distribution of prepared food that is packaged in food service ware or that uses food trays made, in whole or in part, from polystyrene foam, if the prepared food is packaged outside of the City and is provided to the consumer as originally packaged. The proposed ordinance would limit the distribution of food service ware products such as, utensils and straws, for takeout orders of prepared food, and will only allow the provision of utensils upon the request of the person ordering the prepared food.

The ordinance will also include a process for obtaining a waiver of the provisions regarding food service ware and food trays if the applicant or City official seeking the waiver demonstrates that adherence to the ordinance would result in the following: 1) a feasibility-based hardship; 2) a financial hardship; and/or 3) a violation of a contractual requirement.

RECOMMENDED FINDING: Pursuant to CEQA Guidelines Section 15060(d), the proposed project may result in significant environmental impacts in the following areas: **Air Quality, Greenhouse Gas Emissions, and Utilities/Service Systems**. The Initial Study Checklist is available on City's CEQA website at:

https://www.sandiego.gov/ceqa/draft.

PUBLIC SCOPING MEETING: The City of San Diego Planning Department and Environmental Services Department will hold a public scoping on **Wednesday**, **December 16, 2020,** from 1 PM to 3 PM via Zoom. **Please note that depending on the number of attendees, the meeting could end earlier than 3 PM.** The public scoping meeting can be accessed at the following link: https://zoom.us/webinar/register/WN_fzae6ni6Qz6UETkmMpPuHg

COMMENTS: This NOP is available for a 30-day public review period that starts on **December 4, 2020**, and ends on **January 4, 2020**. Written/mail-in comments regarding the proposed PEIR's scope and alternatives should be sent to the following address: **Rebecca Malone, Senior Environmental Planner, City of San Diego Planning Department, 9485 Aero Drive, M.S. 413, San Diego, CA 92123** or emailed to **PlanningCEQA@sandiego.gov with the Project Name in the subject line**. Responsible agencies are requested to indicate their statutory responsibilities in connection with this project when responding. A PEIR incorporating public input will then be prepared and distributed for the public to review and comment.

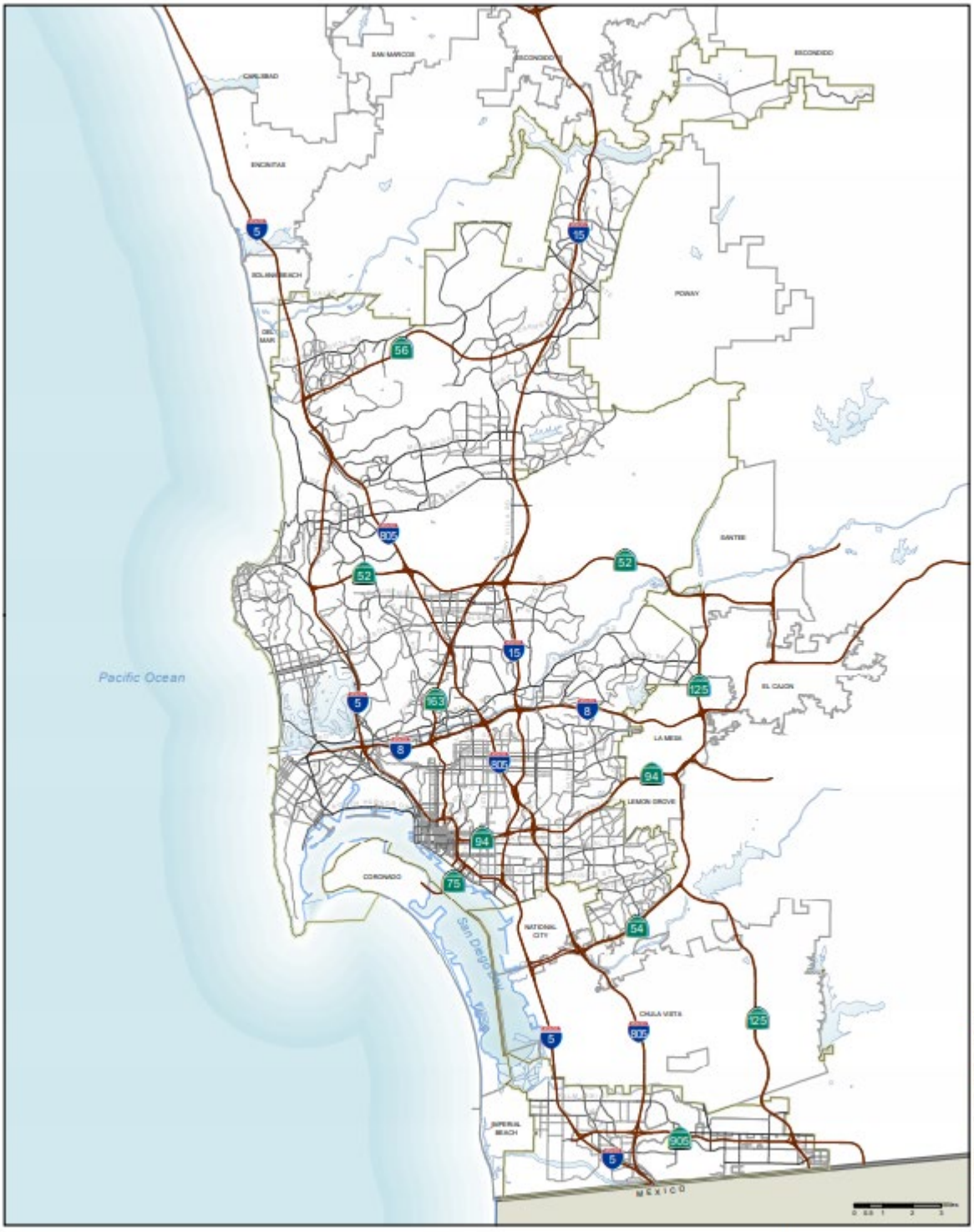
AVAILABILITY IN ALTERNATIVE FORMAT: To request this Notice in alternative format, call the Planning Department at (619) 235-5200 OR (800) 735-2929 (TEXT TELEPHONE).

ADDITIONAL INFORMATION: For environmental review information, contact Rebecca Malone at (619) 446-5371. For information regarding public meetings/hearings on this project, contact the Project Manager, Jennifer Ott, at (858) 573-1285. This notice was published in the SAN DIEGO DAILY TRANSCRIPT and distributed on November 30, 2020.

Heidi Vonblum
Deputy Director
Planning Department

ATTACHMENTS: Figure 1: City of San Diego

Figure 1: City of San Diego



The City of SAN DIEGO **Citywide** PLANNING DEPARTMENT

Initial Study

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INITIAL STUDY CHECKLIST

1. Project Title/Project number: Polystyrene Ordinance.

2. Lead agency name and address: City of San Diego, Planning Department, 9485 Aero Drive, MS 413, San Diego,California 92123-1801.

3. Contact person and phone number: Tara Ash-Reynolds, Junior Planner, (619) 533-6492.

4. Project location: The project is a Citywide ordinance covering the City of San Diego.

5. Project Applicant/Sponsor's name and address: Lisa Wood, Principal Planner, City of San Diego, Environmental Services Department, MS 1102A, San Diego, CA 92123, (858) 573-1236.

6. General Plan designation: NA.

7. Zoning: NA.

8. Description of project (Describe the whole action involved, including but not limited to, later phases of the project, and any secondary, support, or off-site features necessary for its implementation.): CITY COUNCIL APPROVAL to enact an ordinance restricting the use of polystyrene products.

The City is proposing an ordinance that would amend the San Diego Municipal Code (SDMC) to restrict the use of polystyrene products throughout the City. The proposed ordinance includes a ban of the distribution of egg cartons, food service ware, or food trays that are made, in whole or in part, from polystyrene foam. Items that are made, in whole or in part, from polystyrene foam that is not wholly encapsulated or encased within a non-polystyrene foam material (e.g., coolers, ice chests, or similar containers; pool or beach toys; or dock floats, mooring buoys, or anchor or navigation markers) will also be banned from distribution. Products that are made, in whole or in part, from polystyrene foam will be banned from distribution in or at facilities within the City. The proposed ordinance will allow the distribution of prepared food that is packaged in food service ware or that uses food trays made, in whole or in part, from polystyrene foam, if the prepared food is packaged outside of the City and is provided to the consumer as originally packaged. The proposed ordinance would limit the distribution of food service ware products such as, utensils and straws, for takeout orders of prepared food, and will only allow the provision of utensils upon the request of the person ordering the prepared food.

The ordinance will also include a process for obtaining a waiver of the provisions regarding food service ware and food trays if the applicant or City official seeking the waiver demonstrates that adherence to the ordinance would result in the following: 1) a feasibility-based hardship; 2) a financial hardship; and/or 3) a violation of a contractual requirement.

Polystyrene Characteristics: Polystyrene is one of the most widely used forms of plastic. Plastics, including polystyrene, are made by distilling hydrocarbons into lighter groups, which are then combined with catalysts to make plastic. Polystyrene is inexpensive and it can be formed, glued, sanded, cut, and painted. There are three major types of polystyrene: foam, plastic, and film. Polystyrene foam usually occurs in one of two forms, expanded polystyrene (EPS) foam and extruded polystyrene (XPS) foam, both of which are often referred to by the trademarked name Styrofoam. Food and beverage containers and packing peanuts are generally made from EPS foam, while XPS foam is a higher density foam, which is typically used in applications such as architectural moldings[1]. According to a study conducted in 2004 by the State of California, 377,580 tons of polystyrene were produced that year in California[2].

[1] Creative Mechanisms, 2015. Everything You Need to Know about Polystyrene. https://www.creativemechanisms.com/blog/polystyrene-ps-plastic. Accessed May 2020.

[2] Clean Water Action California. April 21, 2009. Facts about Styrofoam Litter (Expanded Polystyrene Foam). http://www.cleanwateraction.org/files/publications/ca/Polystyrene_Litter_Fact_Sheet.pdf. Accessed May 2020.

Existing Polystyrene Use: This initial study estimates that 4.4 pounds of polystyrene per person per year is used, given that the national average ranges from 1.8 to 7 pounds per person per year[3],[4]. The population of San Diego was estimated at 1,425,976 using the Quick Facts Website[5]. This initial study assumes that the number of City of San Diego residents that patronize retailers outside the City is comparable to customers of City retailers who reside outside of San Diego (i.e., visitors who live outside San Diego but travel to shop or eat within the City). Using these data, it is estimated that approximately 6,270,000 pounds of polystyrene are used per year in San Diego.

Anticipated Changes as a Result of the Proposed Ordinance: The overall goal for consumer behavior change is a shift away from single-use products altogether. This approach, referred to in the California Public Resources Code as "source reduction," was given a boost with enactment in 2019 of Assembly Bill 619. This law provides that consumer-owned containers may be used for food take-away purposes. To ensure safety, the food facility must isolate the consumer-owned containers from the serving surface or sanitize the serving surface after each filling. Although encouraged by City and allowed pursuant to AB (619), it is expected that the transition to re-usable containers will result in a reduction of less than five percent of the current use rate of take-out containers. Therefore, source reduction is not quantified for purposes of this analysis. Similarly, utensils and other polystyrene products covered by the ordinance that are not for food take-away purposes are also expected to be a relatively insignificant component of the expected change resulting from ordinance implementation.

It is anticipated that the proposed ordinance could result in an increase in the weight of products used by the public. Both plastic replacements and paper products are generally heavier than polystyrene. While each individual item is generally a lightweight item, when talking about the transport of many thousands of single use products, small increases in weight could have associated, indirect and/or cumulative impacts.

For the purposes of this analysis, to estimate the potential increase in weight, the data from Franklin Associates life cycle study of foam polystyrene was used[6]. According to the Franklin study, a polystyrene 32-ounce cold cups weighs 8.8 grams, whereas a low-density polyethylene (LDPE)-coated paperboard cup weighs 19.8 grams. Similarly, a polystyrene sandwich-sized clamshell weighs 4.8 grams, a paperboard clamshell weighs 10.2 grams, and a solid polylactic acid (biomass-derived alternative) clamshell weighs 23.3 grams. While these data can be used to estimate the increase that could result from a shift to paper, more common plastic replacements were not included in that study. GoCermaic Cup compared a paper cup and a plastic cup that weighed the same amount [7], but plastic alternatives vary widely in weight. Paper and plastic alternatives to polystyrene in these studies range from 1.0 to three times as heavy, with 2.4x representing a rough, conservative estimate of the weight of paper alternative, and 2.5x being a rough, conservative estimate of weight of the plastic alternative. As shown in Table 1, if 70 percent of the existing polystyrene use became paper products, and 30 percent became plastic alternative products, an increase of 8,966,100 pounds (4,483 tons) of material could occur.

TABLE 1: POTENTIAL INCREASED PRODUCT WEIGHT ASSOCIATED WITH ORDINANCE

	Existing Conditions	Proposed Ordinance		
Material Type	Polystyrene	Paper	Plastic	Total
Weight (lb)	6,270,000	10,533,600	4,702,500	15,236,100

[3] The Resin Review, 2012 Edition

[4] For the purpose of this initial study, it is assumed that all polystyrene is EPS foam because there are no other reasonable polystyrene(rigid or film) data available. This is a conservative approach because the basis of the analysis is in part weight-based and EPS foam is generally lighter than rigid polystyrene. Although EPS foam is not necessarily lighter than EPS film, EPS film is likely not widely used byfood service providers in the City. Instead, it would be more likely that polystyrene film would be found on pre-packaged food items.

[5] Quick Facts. https://www.census.gov/quickfacts/fact/table/sandiegocitycalifornia/PST045218#PST045218. Accessed May 2020.

[6] Franklin Associates, A Division of ERG, 2011. Life Cycle Inventory of Foam Polystyrene, Paper-based, and PLA Foodservice Products. https://www.plasticfoodservicefacts.com/wp-content/uploads/2017/12/Peer_Reviewed_Foodservice_LCA_Study-2011.pdf. Accessed May 2020.

[7] GoCermaic Cup, 2018. https://gramcup.com/grams-a-cup-weighs-paper-plastic-ceramic-glass-cups/. Accessed May 2020.

Table assumes 70 percent of the baseline polystyrene use will be replaced by paper, 30 percent by plastic, and that paper alternatives are 2.4 times as heavy as polystyrene and plastic alternatives are 2.5 times as heavy as polystyrene.

9. Surrounding land uses and setting:

Geographical Setting: The City of San Diego is the largest (geographically and by population) of the 18 cities within the County of San Diego. It is located approximately 120 miles south of Los Angeles and adjacent to the border with Mexico. With an estimated population of more than 1.4 million, San Diego is the eighth-largest city in the United States and second-largest in California. The City is known for its mild year-round climate, deep-water harbor, extensive beaches, long association with the United States Navy, and recent emergence as a healthcare and biotechnology development center. The City is the seat of San Diego County and is the economic center of the region as well as the San Diego–Tijuana metropolitan area. San Diego's main economic engines are military and defense-related activities, tourism, international trade, and manufacturing. The presence of the University of California, San Diego (UCSD), with the affiliated UCSD Medical Center, has helped make the area a center of research in biotechnology.

Existing Polystyrene Disposal: The national average of polystyrene use ranges from 1.8 to 7 pounds per person per year. A waste characterization analysis completed in 2010 by the cities of Mountain View and Sunnyvale determined the per capita disposal rate of polystyrene materials to be 6.4 pounds per person per year, which is comparable with New York City's 2015 polystyrene disposal rate estimated to be 6.0 pounds per person per year[8]. In 1999, approximately 300,000 tons of EPS foam was landfilled in California, which represents approximately 0.8 percent of total waste and translates to a total disposal cost of $30 million per year[9]. Although the weight-based percentage is small, EPS foam is light, so it represents a larger percentage of the total waste stream by volume. Although the technology to recycle polystyrene exists, EPS foam food containers are rarely recycled because the items are not clean enough for recyclable processing and/or the recycled material is not profitable enough to sell to waste traders. Likewise, polystyrene is non-biodegradable.

Polystyrene food and beverage containers are odorless, lightweight, insulated, sturdy packages, but are intended for one-time use before disposal. Californians use approximately 165,000 tons of polystyrene each year for packaging and food service purposes; however, only 0.2 percent is recycled[10].

Polystyrene in Litter: Littered polystyrene food packaging clogs storm drains and pollutes beaches, which results in millions of dollars in clean-up costs[11]. Once littered, polystyrene entangles in brush, collects along roadways, blows into storm drains, and washes up on beaches. It breaks apart and is carried downstream into waterways, impacting the environment, including wildlife. EPS foam crumbles and can be difficult to collect. It is often a more visible source of litter compared to other littered materials. In addition to impacts on wildlife, littering impacts recreational areas and the quality of life for residents. One study of beach debris surveyed 43 sites along the Orange County coast. It found that EPS foam was the second most abundant form of beach debris[12]. Additionally, the 'Two Rivers' study in Los Angeles found that over 1.6 billion pieces of plastic foam were headed to the ocean over a three-day period during surveys in 2004/5. Likewise, the study determined that 71 percent of the 2.3 billion plastic items in the survey were foam items and that made up 11 percent of the overall weight of plastic pollution collected

[8] Resource Recycling. 2017. The Rise of EPS Ordinances. https://resource-recycling.com/recycling/2017/02/06/rise-eps-ordinances/.Accessed May 2020.

[9] Equinox Project. March 2017. Recommendations for Reducing or Banning Foam Food Service Containers: An Analysis of Economicand Environmental Impacts of Polystyrene Policies. https://energycenter.org/sites/default/files/Guide_for_Polystyrene_Reduction_Policies.pdf. Accessed May 2020.

[10] Gardner, Michael and Lee, Mike. December 1, 2008. State panel floats 'litter tax' to curb debris along coast. http://www.sandiegouniontribune.com/sdut-1n1oceans94953-state-panel-floats-litter-tax-curb--2008dec01-htmlstory.html. Accessed May 2020.

[11] Clean Water Action California. April 21, 2009. Facts about Styrofoam Litter (Expanded Polystyrene Foam). http://www.cleanwateraction.org/files/publications/ca/Polystyrene_Litter_Fact_Sheet.pdf. Accessed May 2020.

[12] Clean Water Action California. April 21, 2009. Facts about Styrofoam Litter (Expanded Polystyrene Foam). http://www.cleanwateraction.org/files/publications/ca/Polystyrene_Litter_Fact_Sheet.pdf. Accessed May 2020.

during the surveys[13]. In 2017, the Surfrider Foundation's San Diego Chapter removed 20,883 pieces of polystyrene foam from City beaches[14].

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):None.

11. Have California Native American tribes traditionally and culturally affiliated with the project area requestedconsultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun? NA.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

[13] C.J. Moore, G.L. Lattin and A.F. Zellers. Journal of Integrated Coastal Zone Management 11(1):65-73 (2011)

[14] Surfrider Foundation San Diego County. 2019. Victory! San Diego Passes Strong Plastics Reduction Ordinance. https://sandiego.surfrider.org/victory-san-diego-passes-strong-plastics-reduction-ordinance/. Accessed May 2020.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

Aesthetics	X Greenhouse Gas Emissions	Public Services
Agriculture and Forestry Resources	Hazards & Hazardous Materials	Recreation
X Air Quality	Hydrology/Water Quality	Transportation
Biological Resources	Land Use/Planning	Tribal Cultural Resources
Cultural Resources	Mineral Resources	Utilities/Service Systems
Energy	Noise	Wildfire
Geology/Soils	Population/Housing	X Mandatory Findings of Significance

DETERMINATION: (To be completed by Lead Agency)On the basis of this initial evaluation:

The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

X The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

The proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (a) has been adequately analyzed in an earlierdocument pursuant to applicable legal standards, and (b) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required.

Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or (MITIGATED) NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or (MITIGATED) NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

I. AESTHETICS: Would the project:

a) Have a substantial adverse effect on a scenic vista?	N/A	N/A	N/A	No Impact

The project does not propose any construction, alternation of landform, or other modification to the land. It would have no impact.

b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? If the project is in an urbanized area, would the project conflict applicable zoning and other regulations governing scenic quality.	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

II. AGRICULTURAL AND FOREST RESOURCES:

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and FireProtection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

b) Conflict with existing zoning for agricultural use, or a Williamson Act Contract?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 1220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Result in the loss of forest land or conversion of forest land to non-forest use?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

III. AIR QUALITY:

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied on to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact on any applicable plan or on the local air quality.

b) Result in a cumulatively considerable net increase ofany criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	Potentially Significant Impact	N/A	N/A	N/A

The proposed ordinance would not involve any physical development that would directly increase air quality emissions. However, implementation of the proposed ordinance would increase the use of polystyrene alternatives. The transportation of potentially heavier products to retailers in San Diego could contribute increased air emissions locally and regionally. As explained in section XVII, the anticipated change in consumer behavior could result in additional vehicles trips per year. The emissions associated with this potential increase warrants further investigation.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Expose sensitive receptors to substantial pollutant concentrations?	N/A	N/A	N/A	No Impact

Please see III(a). No manufacturing facilities are proposed. The project would have no impact on sensitive receptors in the region.

d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	N/A	N/A	N/A	No Impact

Please see III(a). No manufacturing facilities are proposed. The project would have no impact substantial numbers of people.

IV. BIOLOGICAL RESOURCES: Would the project:

a) Have substantial adverse effects, either directly orthrough habitat modifications, on any species identified as a candidate, sensitive, or special status species inlocal or regional plans, policies, or regulations, or by the California Department of Fish andGame or U.S. Fish and Wildlife Service?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

b) Have a substantial adverse effect on any riparian habitat or other communityidentified in local or regional plans, policies, andregulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrologicalinterruption, or other means?	N/A	N/A	N/A	No Impact
Please see I(a). No construction is proposed. The project would have no impact.				
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the useof native wildlife nursery sites?	N/A	N/A	N/A	No Impact
Please see I(a). No construction is proposed. The project would have no impact.				
e) Conflict with any local policies or ordinances protecting biological resources, such as a treepreservation policy or ordinance?	N/A	N/A	N/A	No Impact
Please see I(a). No construction is proposed. The project would have no impact.				
f) Conflict with the provisionsof an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	N/A	N/A	N/A	No Impact
Please see I(a). No construction is proposed. The project would have no impact.				

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES: Would the project:				
a) Cause a substantial adverse change in the significance ofan historical resource as defined in §15064.5?	N/A	N/A	N/A	No Impact
Please see I(a). No construction is proposed. The project would have no impact.				
b) Cause a substantial adverse change in the significance ofan archaeological resource pursuant to §15064.5?	N/A	N/A	N/A	No Impact
Please see I(a). No construction is proposed. The project would have no impact.				
c) Directly or indirectly destroya unique paleontological resource or site or unique geologic feature?	N/A	N/A	N/A	No Impact
Please see I(a). No construction is proposed. The project would have no impact.				
d) Disturb any human remains, including those interred outside of dedicated cemeteries?	N/A	N/A	N/A	No Impact
Please see I(a). No construction is proposed. The project would have no impact.				
VI. ENERGY: Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessaryconsumption of energy resources, during project construction or operation?	N/A	N/A	N/A	No Impact
Please see I(a). No manufacturing facilities construction or operation are proposed.				

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	N/A	N/A	N/A	No Impact

As explained in VI(a), no construction and no facilities are proposed. The project would not conflict with any state or local plan for renewable energy or energy efficiency.

VII. GEOLOGY AND SOILS: Would the project:

a) Expose people or structuresto potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no geology impacts within the region. Greenhouse-gas- related geology and soils impacts may be associated with raw material production, such as the mining of petroleum products for polystyrene production. However, the greenhouse gas impacts associated with polystyrene source material production area baseline condition, and impacts associated with alternative products are anticipated to be comparable or less.

ii) Strong seismic ground shaking?	N/A	N/A	N/A	No Impact

Please see VI(a). No construction is proposed. The project would have no impact.

iii) Seismic-related ground failure, including liquefaction?	N/A	N/A	N/A	No Impact

Please see VI(a). No construction is proposed. The project would have no impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
iv) Landslides?	N/A	N/A	N/A	No Impact

Please see VI(a). No construction is proposed. The project would have no impact.

b) Result in substantial soil erosion or the loss of topsoil?	N/A	N/A	N/A	No Impact

Please see VI(a). No construction is proposed. The project would have no impact.

c) Be located on a geologic unit or soil that is unstable,or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	N/A	N/A	N/A	No Impact

Please see VI(a). No construction is proposed. The project would have no impact.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available forthe disposal of wastewater?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

VIII. GREENHOUSE GAS EMISSIONS: Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Potentially Significant Impact	N/A	N/A	N/A

The City of San Diego, as of July 2016, uses the Climate Action Plan Consistency Checklist (Checklist) to provide a streamlined review process for projects that are subject to discretionary review and trigger environmental review pursuant to CEQA. The first step in determining CAP consistency is to assess a project's consistency with the land use assumptions used in the CAP. Specifically, in Step 1, the proposed projects must be determined to be consistent with the existing General Plan and Community Plan land use and zoning designations. The proposed ordinance does not entail construction activities or changes to the physical or built environment, therefore the project would be consistent with the City's General Plan land use and zoning designations.

Step 2 of the Checklist evaluates a project's consistency with the applicable strategies and actions of the CAP. However, Step 2 only applies to development projects that involve permits that would require a certificate of occupancy. The project would notrequire a certificate of occupancy since no construction activities are proposed. Thus, by the checklist approach, the project would have no impacts. However, the checklist approach does not include a life-cycle analysis.

The primary sources of GHG emissions include: transportation; energy consumption associated with both electricity purchasedfrom utilities and on-site combustion of natural gas, propane or other fuels used in buildings or other facilities; emissions associated with solid waste management, including decomposition at existing landfills; wastewater management including both emissions and energy use; water-related category emissions from energy usage for the conveyance, treatment and distribution of water; agricultural emissions, including manure and enteric fermentation in livestock, application of fertilizers, and equipment; and, emissions from specific industrial-sector or commercial activities. Emissions inventories are typically focused on activities that occur within a community's boundaries or nearby in the surrounding region, and for activities and sources over which the local agencies have jurisdictional control or substantial jurisdictional influence. Consistent with long-standing CEQA analysis practice, local government climate actions plans typically do not use consumption-based or life-cycle scopes of analysis for calculating GHG emissions because: 1) many emissions estimated in such analyses are outside of local jurisdictional control or substantial jurisdictional influence, and 2) such scopes of analysis result in double-counting of emissions in other California communities' inventories or in other jurisdictions' inventories elsewhere in the nation or the world. Many communities in California and across the world are already calculating and reducing emissions under other federal or international agreements or protocols, and thus the framework for emissions analysis in a CAP needs to recognize that a local agency is not responsible for reducing all consumption-based or life-cycle emissions. However, the proposed ordinance targets consumer behavior, and therefore a more comprehensive global consumption-based or life-cycle emissions analysis may be appropriate. Because the ordinance could result in a shift to products that are heavier, an increase in emissions associated with product transportation is possible, and further GHG analysis may be warranted.

b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	N/A	N/A	N/A	No Impact

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

Please see the first paragraph of VIII(a). It is anticipated that the proposed project would not conflict with any applicable plans, policies, or regulations related to greenhouse gases; specifically, the project is consistent with the City of San Diego Zero Waste Plan. The project would have no impact on any existing plan, policy, or regulation adopted for the purpose of reducing greenhouse gases.

IX. HAZARDS AND HAZARDOUS MATERIALS: Would the project:

a) Create a significant hazardto the public or the environment through routine transport, use, or disposal of hazardous materials?	N/A	N/A	N/A	No Impact

Expected use of polystyrene and alternative products does not include heating on a stove or in a microwave, or treatment other than the intended use. Heating or other treatment of polystyrene and alternative products could release hazardous materials, but this is not the intended use of the products. No hazards associated with product use, above and beyond the baseline conditions, are anticipated.

Neither polystyrene products nor the alternative products are considered hazardous materials. The transportation of these products does not pose a hazard. No transportation-related hazards are anticipated.

Polystyrene is not a hazardous material and can be disposed of in a landfill, or, in some cases recycled, and does not require handling as a hazardous material. The same is true for the common replacement products. Therefore, no hazardous material disposal impacts are associated with the project.

b) Create a significant hazardto the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	N/A	N/A	N/A	No Impact

Please see IX(a). The project would have no impact.

c) Emit hazardous emissionsor handle hazardous or acutely hazardous materials, substances, or waste within one-quartermile of an existing or proposed school?	N/A	N/A	N/A	No Impact

Please see IX(a). The project would have no impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

e) For a project located withinan airport land use plan or,where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residingor working in the project area?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergencyevacuation plan?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Expose people or structuresto a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

X. HYDROLOGY AND WATER QUALITY: Would the project:

a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	N/A	N/A	N/A	No Impact

The proposed ordinance would not involve physical development regulated by water quality standards or water quality or require the development of waste discharge requirements. Effects on manufacturing could pose an indirect effect, which is discussed below. Additionally, effects on littering could also pose an indirect effect, also discussed below. To facilitate the analysis in this initial study, a brief overview of existing conditions is also provided. Thus, the following answer provides three categories of discussion: Existing Conditions; Manufacturing (with a comparison of before-the-ordinance and after-the- ordinance impacts); and Littering (with a comparison of before-the-ordinance and after-the-ordinance impacts).

Existing Conditions.

Surface Water. There are seven major watersheds located in the City of San Diego: San Dieguito, Los Peñasquitos, San Diego, Pueblo, Sweetwater, Otay, and Tijuana. Much of the City is urbanized with modifications to the natural hydrology, in the form of a stormwater conveyance system developed to direct stormwater into natural, man-made, or partially modified features in response to flood risks. This system of drainage is referred to as the Multiple Separate Storm Sewer System (MS4). It carries water from rain events within the City to drain into receiving waters such as rivers, reservoirs, or bays, and/or the Pacific Ocean.

The City's existing storm drain system and flood control facilities generally have sufficient capacity to provide developed areas with adequate protection from flooding. The major receiving waters for the system include the Pacific Ocean, San Diego Bay, Mission Bay, San Dieguito River, Los Peñasquitos Creek, San Diego River, Otay River, and Tijuana River. There are several major reservoirs within or managed by the City (Barrett, El Capitan, San Vincente, Hodges, Miramar, Murray, Lower Otay, Upper Otay,and Sutherland) in addition to minor receiving waters that consist of creeks, channels, streams, and lagoons.

Water quality can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sourcesare washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Runoff may contain contaminants such as oil, grease, and other pollutants from vehicles; plant and animal debris (e.g. leaves, twigs, dust, and animal feces); pesticides; litter; and heavy metals. These pollutants have been found to adversely affect the aquatic habitats[15].

[15] City of San Diego stormwater website. https://www.sandiego.gov/stormwater/about/background. Accessed May 2020.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

Groundwater. There are several groundwater basins underlying the region occupied by the City of San Diego (Peñasquitos, San Dieguito, San Diego, Pueblo San Diego, Sweetwater, Otay, and Tijuana basins)[16]. In 2018, the City started receiving an estimated 2,600 acre-feet per year (AFY) of desalinated groundwater from the Sweetwater Authority in addition to the 500 AFY from existing production wells in the San Diego River Valley Groundwater Basin[17]. These groundwater sources are a permanent addition to the City's diversified water supply, a majority of which (80 to 90 percent) is imported from Northern California and the Colorado River.

Manufacturing. There are two polystyrene manufacturers located in the City of San Diego and one distributor located in the City of Encinitas[18]. Additionally, there are paper mills and plastic and polystyrene manufacturers throughout the greater southern California region and in Mexico. Polystyrene food packaging products and likely alternatives are also manufactured and/or used elsewhere in California. Therefore, impacts to hydrology and water quality are not limited to the local watershed. For this analysis the local watershed and hydrologic conditions are discussed and used as an example of the types of effects that may occur as a result of the manufacturing and disposal of food packaging.

The proposed ordinance would result in a reduction in polystyrene products and is anticipated to result in an increase in the manufacture and use of plastic and paper substitute materials. There are currently fiber and plastic containers manufactured in the state and nationally and internationally. In discussing the expected effect of the ordinance in question 8, above, it is estimated that paper alternatives would comprise 70 percent of products used after ordinance implementation and 30 percent plastic products.

Impacts Associated with Plastic/Polystyrene. Most of the baseline impacts to hydrology and water quality associated with the manufacture of polystyrene are similar to impacts that are associated with potential replacement plastic products. These impacts occur when crude oil is mined and refined as raw materials for plastics manufacture. Both mining and refining processes are potential major contributors to ground water and surface water contamination. Extraction processes vary in potential impacts, with the drilling method of "fracking" best known for contaminating drinking water sources with chemicals that lead to cancer, birth defects, and liver damage. The controversial method injects a mixture of water and chemicals into rock formations to release oil and gas. As a result, it generates huge volumes of wastewater with dangerous chemicals that can leak into surface water and underground aquifers. Refineries are another potential source of contamination. Some refineries use deep-injection wells to dispose of wastewater generated inside the plants, and some of these wastes end up in aquifers. Wastewater in refineries may be highly contaminated given the number of sources it can come into contact with during the refinery process (such as equipment leaks and spills and the desalting of crude oil). This contaminated water may be process wastewaters from desalting, water from cooling towers, stormwater, or other wastewater source. It may contain oil residuals and other hazardous wastes. This water is recycled through many stages during the refining process and goes through several treatment processes, including a wastewater treatment plant, before being released into surface waters. The wastes discharged into surface waters are subject to state discharge regulations and are regulated under the Clean Water Act (CWA). These discharge guidelines limit the amounts of sulfides, ammonia, suspended solids and other compounds that may be present in the wastewater[19].

[16] San Diego County. 2007. San Diego County Watersheds and Groundwater Basins. http://www.sdirwmp.org/pdf/sdirwm_groundwater_map.pdf. Accessed March 2020. Accessed May 2020.

[17] City of San Diego. 2020. Water Supply. https://www.sandiego.gov/public-utilities/sustainability/water-supply. Accessed May 2020.

[18] Thomas Register. 2020. Expanded Polystyrene (EPS) Foam Suppliers serving Southern California. https://www.thomasnet.com/southern-california/expanded-polystyrene-eps-foam-30682090-1.html. Accessed May 2020. Jarrett Industries – distributor, Encinitas; Flexy Foam & Packaging – manufacturer, San Diego; KB Foam, Inc – manufacturer, San Diego

[19] Environmental Impact of the Petroleum Industry, Update #12, June 2003. Published by the Hazardous Substance Centers/South & Southwest Outreach Program. https://cfpub.epa.gov/ncer_abstracts/index.cfm/fuseaction/display.files/fileID/14522. Accessed May 2020.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

When plastics are manufactured from recycled plastic, the impacts associated with virgin materials mining are avoided.

Impacts Associated with Paper. The acquisition of raw material for the manufacture of paper alternatives is not associated withas much water contamination as is the acquisition of crude oil for plastic manufacture. While timber harvest does promote erosion[20], which contaminates surface water, many paper replacement products may be made from recycled paper, which is not associated with this impact. However, the manufacturing process of most paper products generates wastewater that includes nitrogen and phosphorus, which can cause eutrophication, and hydrogen sulfides and dioxins, which can cause toxicological effects on aquatic ecosystems if left untreated. Paper manufactured using recycled content generally results in reduced water quality impacts, compared to virgin materials. Paper manufacture in the United States is regulated under the National Pollution Discharge Elimination System under the Industrial Discharge Program[21]. Any manufacturing facility, including plastic and paper manufacturers, must comply with the applicable regulations at the point of release.

Comparison of Impacts. The transition to alternative products resulting from the ordinance is anticipated to be the same or slightly reduced compared to baseline conditions, and to be in compliance with regulations. Therefore, the ordinance would not result in impacts.

Litter. Litter has the potential to end up on streets, in stormwater systems, and in waterways. In addition to illegal disposal of trash, which is also known as litter, improper disposal of waste can be attributed to a lack of infrastructure to capture debris such as trash cans without lids, overfilled trashcans, public parks, recreational areas, and beaches. One of the primary sources of marine debris is urban runoff[22].

The City conducts activities to collect and cleanup litter including street sweeping, collecting trash from public trash containers, and organizing, publicizing, and facilitating local cleanups of waterways. These events are held throughout the year (e.g. street- sweeping and routing maintenance of parks/public trash collection) as well as on a single-day basis (e.g. clean up days and illegal dumping response). Across the state, municipalities spend approximately $428 million annually related to waterway and beach cleanups, street sweeping, stormwater capture devices, storm drain cleaning and maintenance, manual litter cleanup, and public anti-littering campaigns. Additionally, Caltrans estimates that it spends $52 million annually to clean up litter from roads and highways[23]. The City spent nearly $14 million on cleanup in 2012: approximately $342,000 for beach and waterway cleanup; $6.4 million for storm drain cleaning and maintenance; and $556,000 for stormwater capture devices[24].

[20] Johnny Boggs, Ge Sun, Steven McNulty. Effects of Timber Harvest on Water Quantity and Quality in Small Watersheds in the Piedmont of North Carolina. *Journal of Forestry*, Volume 114, Issue 1, January 2016, Pages 27–40. https://academic.oup.com/jof/article/114/1/27/4571804. Accessed May 2020.

[21] United States Environmental Protection Agency (U.S. EPA). 1990. Paper Industry. https://nepis.epa.gov/Exe/ZyNET.exe/10001AI8.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1986+Thru+1990&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C86thru90%5CTxt%5C00000004%5C10001AI8.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL#. Accessed May 2020.

[22] Midbust et al. Reducing Plastic Debris in the Los Angeles and San Gabriel River Watersheds. April 2014. http://www.bren.ucsb.edu/research/2014Group_Projects/documents/Bren-Group-Project-Thesis-Reducing-Plastic-Debris-in-the-Los-Angeles-and-San-Gabriel-Riv_000.pdf. Accessed May 2020.

[23] Midbust et al. Reducing Plastic Debris in the Los Angeles and San Gabriel River Watersheds. April 2014. http://www.bren.ucsb.edu/research/2014Group_Projects/documents/Bren-Group-Project-Thesis-Reducing-Plastic-Debris-in-the-Los-Angeles-and-San-Gabriel-Riv_000.pdf. Accessed May 2020.

[24] Kier Associates. 2012. The Cost to West Coast Communities of Dealing with Trash, Reducing Marine Debris. https://www.coastal.ca.gov/publiced/coordinators/WestCoastCommsCost-MngMarineDebris.pdf. Accessed May 2020.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

Polystyrene as Litter. Polystyrene products that enter the storm drain system as litter may affect stormwater flow by clogging drains and redirecting flow. After a single use, the containers are disposed of in a landfill or recycling facility, or alternatively intentionally or accidentally discarded as litter. Although some recycling facilities accept polystyrene food and beverage containers, most reject the material because it is contaminated after use and/or the recycled material is not profitable (there is a negative market value). Of the 377,580 tons of polystyrene produced in California in 2004, less than one percent was recycled[25]. Most polystyrene food and beverage containers end up in the landfill or as litter[26]. Even what is collected by recycling and solid waste trucks and handled at transfer stations and landfills may escape as litter because the light-weight material becomes airborne at low wind speeds. Single-use polystyrene containers that become litter can enter storm drains and may clog catch basins or be transported to the Pacific Ocean. This especially harmful because it is common for polystyrene to breakdown into small pieces that can pass through the five-millimeter mesh screens used to trap and hold debris. A study completed in Los Angeles County found that polystyrene comprised approximately 6-23 percent of plastic debris found in the Los Angelesand San Gabriel River Watersheds[27]. This is likely an underestimation because the study did not include foamed food containers unless the item was specifically labeled as polystyrene[28]. In 2017, the Surfrider Foundation's San Diego Chapter removed 20,883 pieces of polystyrene foam from City beaches[29]. In 2018, polystyrene waste materials accounted for 11.6 percent of the total waste materials collected during beach cleanup events held throughout the County[30].

Other Plastics as Litter. Similar to polystyrene, plastic food and beverage products have the potential to enter the storm drains as litter. Although potentially similar in weight to polystyrene containers, plastic containers are less likely to break apart and are therefore more apt to be removed during street sweeping or maintenance activities.

Paper as Litter. Paper food packaging also has the potential to enter the storm drains as litter. However, because of the potential weight and breakdown of paper, these food and beverage containers are less likely to become persistent litter compared to single-use polystyrene containers. In addition, because paper food containers are not as resistant to biodegradation, there is less potential for paper alternatives to clog catch basins compared to polystyrene food products. Although paper food and beverage product litter may enter storm drains and temporarily affect hydrologic flow of surface water runoff, the potential for paper products to result in long-term hydrologic effects is less than with polystyrene products.

Comparison of Impacts. A study conducted in the City of San Francisco measured EPS foam in litter after adoption of an ordinance restricting polystyrene use. The study included a street litter audit, with 132 sites studied from April 7 to 18, 2008. Litter was classified as "large" (more than four square inches) or "small" (less than four square inches). To understand the change in litter, a baseline audit was also completed prior to the adoption of the ordinance. In the first sample year after the ordinance was adopted, the relative composition of litter appeared to shift from EPS foam to the substitute container types. According to the study's findings, the ordinance changed the

[25] Clean Water Action California. April 21, 2009. Facts about Styrofoam Litter (Expanded Polystyrene Foam). http://www.cleanwateraction.org/files/publications/ca/Polystyrene_Litter_Fact_Sheet.pdf. Accessed May 2020.

[26] Equinox Project. March 2017. Recommendations for Reducing or Banning Foam Food Service Containers: An Analysis of Economic and Environmental Impacts of Polystyrene Policies. https://energycenter.org/sites/default/files/Guide_for_Polystyrene_Reduction_Policies.pdf. Accessed May 2020.

[27] Midbust et al. Reducing Plastic Debris in the Los Angeles and San Gabriel River Watersheds. April 2014. http://www.bren.ucsb.edu/research/2014Group_Projects/documents/Bren-Group-Project-Thesis-Reducing-Plastic-Debris-in-the-Los-Angeles-and-San-Gabriel-Riv_000.pdf. Accessed May 2020.

[28] Midbust et al. Reducing Plastic Debris in the Los Angeles and San Gabriel River Watersheds. April 2014. http://www.bren.ucsb.edu/research/2014Group_Projects/documents/Bren-Group-Project-Thesis-Reducing-Plastic-Debris-in-the-Los-Angeles-and-San-Gabriel-Riv_000.pdf. Accessed May 2020.

[29] Surfrider Foundation San Diego County. 2019. Victory! San Diego Passes Strong Plastics Reduction Ordinance. https://sandiego.surfrider.org/victory-san-diego-passes-strong-plastics-reduction-ordinance/. Accessed May 2020.

[30] Surfrider Foundation San Diego County. 2018. San Diego County Beach Cleanup Data Report 2018. https://sandiego.surfrider.org/wp-content/uploads/2019/05/2018-Coastkeeper_Surfrider-BCU-Data-Analysis-Mitch-copy.pdf. Accessed May 2020.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

composition of urban litter, reducing the proportion comprised of polystyrene, but not the total amount of litter[31]. However, even if the ordinance does not reduce the amount of litter, reducing the proportion of litter comprised of polystyrene would in itself be a benefit. Because polystyrene easily breaks down into smaller particles yet does not decompose, and then more easily blow around yet cannot be captured in screening devices or other maintenance methods, it is more difficult to control than alternatives. The conclusion of the report was that, while the overall volume of litter from food and beverage containers may be similar, the replacement materials are less likely to reach waterways. If paper materials do end up reaching waterways, they are likely to naturally biodegrade. The breakage of plastic alternatives into small, harmful pieces would be similar to that of polystyrene, but slower because polystyrene generally breaks into piecessooner than other hard, non-foam plastic resin products.

The proposed ordinance would target litter reduction, but even if there is no substantial change in the number, volume, or weight of litter items or trash in waterways, the changed nature of the litter may be beneficial. Such a shift would not interfere with implementation of regional plans or programs including National Pollutant Discharge Elimination System (NPDES) municipal stormwater permits designed to protect beneficial uses and improve water quality. The proposed polystyrene ordinance would not violate water quality standards, waste discharge requirements, or otherwise substantially degrade water quality. Therefore, the project would not be anticipated to have any negative impacts.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge suchthat there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate ofpre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	N/A	N/A	N/A	No Impact

Water use associated with product manufacture, such as water use associated with concrete used for most project development, is beyond the scope of CEQA analysis. In this case, the ordinance proposes no manufacture of products, and therefore entails no water consumption. However, the project requires a shift in products, therefore global groundwater issues associated with raw materials will be considered. As explained in Section X(a), crude oil extraction and refining for plastic/polystyrene manufacture is more strongly associated with groundwater use and contamination compared to the production of raw materials for paper manufacture. Because the specific manufacturing facilities that would be involved are not known, a precise comparison is not possible, but overall it is anticipated that the potential for ground water depletion would be similar with and without the proposed ordinance, and potentially less. It is anticipated that the project would have no impact.

[31] HDR, BVA Inc. and MGM Management. July 4, 2008. The City of San Francisco Streets Litter Re-Audi 2008. https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/MRP/02-2012/Comments/Dart/Staff_Exhibits.pdf. Accessed May 2020.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern ofthe site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

d) Substantially alter the existing drainage pattern ofthe site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would resultin flooding on- or off-site?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

e) Create or contribute runoff water, which would exceed the capacity of existing or planned stormwater drainage systems or providesubstantial additional sources of polluted runoff or impeded or redirect flood flows?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. As explained in X(a), the effect on drainage systems is expected to be beneficial, shifting littered materials to a type that is easier to control. The project would have no negative impact.

f) In flood hazard, tsunami or seiche zones, risk release of pollutants due to project inundation?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. During flood and other extreme events, more litter would be expected to be washed into waterways. However, as explained in X(a), the effect on drainage systems is expected to be beneficial. The project would have no negative impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. As explained in X(a), the effect on groundwater is anticipated to be neutral or potentially beneficial, and the effect on drainage systems is expected to be beneficial, shifting littered materials to a type that is easier to control. The project would have no negative impact.

XI. LAND USE AND PLANNING: Would the project:

a) Physically divide an established community?	N/A	N/A	N/A	No Impact

Please see I(a). No construction, and no land uses, are proposed. There would be no impact.

b) Cause a significant environmental impact due to conflict with any land useplan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. There would be no impact.

XII. MINERAL RESOURCES: Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	N/A	N/A	N/A	No Impact

Please see I(a). No construction and no manufacture or use of mineral raw materials is proposed. The project would have no impact. The project would have an effect on the consumption of materials, such as polystyrene, that are made from mineral materials, with potentially a very minor reduction in such consumption. The project is not anticipated to have any measurable impact on the global production of crude oil.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

XIII. NOISE: Would the project result in:

a) Generation of substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	N/A	N/A	N/A	No Impact

San Diego Municipal Code Section 59.5.0401 regulates noise by land use and time of day. The project is a Citywide ordinance that would regulate polystyrene use; no land use is proposed. Therefore, the project would normally be considered not to have any impact. However, polystyrene products are part of the commerce that occurs within the City, and thus are included in the existing traffic, which generates noise. As explained in section XVII, the distribution of polystyrene products within the City accounts for approximately 130 truck trips per year. Based on the potential change in consumption described in 8, above, the additional weight associated with alternatives products could result in a net increase of up to 187 truck trips per year. However, these trips would not be confined to any one area. Thus, the resulting noise would be imperceptible. Therefore, the project would have no noise impacts.

b) Generate excessive ground-borne vibration or ground-borne noise levels?	N/A	N/A	N/A	No Impact

Please see XIII(a). The potential addition of up to 187 trucks per year across the entire City would not generate perceptiblevibration or ground-borne noise. The project would have no impact.

c) For a project located in the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airportor public use	N/A	N/A	N/A	No Impact

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
airport, would the project expose people residing or working in the project area to excessive noise levels?				

Please see I(a). The project is a Citywide ordinance that would not include any construction, and it would not result in anyone residing or working near an airport. The project would have no impact.

XIV. POPULATION AND HOUSING: Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roadsor other infrastructure)?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

b) Displace substantial numbers of existing peopleor housing, necessitating the construction of replacement housing elsewhere?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

XV. PUBLIC SERVICES

a)Would the project result in substantial adverse physicalimpacts associated with theprovisions of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service rations, response times or other performance objectives for any of the public services:

i) Fire Protection	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
ii) Police Protection	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

iii) Schools	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

iv) Parks	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

v) Other public facilities	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

XVI. RECREATION:

a) Would the project increase the use of existing neighborhood and regionalparks or other recreationalfacilities such that substantial physical deterioration of the facility would occur or be accelerated?	N/A	N/A	N/A	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

b) Does the project include recreational facilities or require the construction orexpansion of recreational facilities, which might havean adverse physical effect on the environment?	N/A	N/A	N/A	No Impact

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

Please see I(a). No construction is proposed. The project would have no impact.

XVII. TRANSPORTATION/TRAFFIC: Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, includingbut not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	N/A	N/A	Less Than Significant Impact	N/A

The City of San Diego participates in the San Diego Association of Government's (SANDAG) Regional Transportation Plan and Congestion Management Plan. The City's General Plan Mobility Element is part of SANDAG's long-range mobility plan[32]. The four components of the plan are Land Use, Demand Management, Systems Development, and Systems Management. The impact of the proposed ordinance on demand management is discussed below.

Assuming that food and beverage containers are transported via a standard 53-foot delivery truck, which have a maximum load capacity of approximately 48,000 pounds, approximately 130 annual truck trips (an average of about 0.36 trips per day) are needed under existing conditions to deliver the approximately 6,270,000 pounds (or 4,438 tons) of polystyrene used per year in San Diego, as explained in the description of the project, question 8, above. In question 8, paper was assumed to replace 70 percent of the existing polystyrene food ware products, and the rest (approximately 30 percent) would be replaced with ordinance-approved plastic food and beverage containers. Given the additional weight associated with the replacement products, approximately 187 truck trips would be needed per year to deliver 4,702,500 pounds of plastic and 10,533,600 pounds of paper products. This is a net increase of five truck trips per year compared to existing conditions. An increase of five truck trips annually would be negligible and would not conflict with any established programs, plans, ordinances, or policies. Therefore, the project would have a less than significant impact on implementation of existing City or SANDAG programs, plans, or policies pertaining to the City's circulation system.

b) Would the project conflictor be inconsistent with CEQA Guidelines section 15064.3 subdivision (b)?	N/A	N/A	Less Than Significant Impact	N/A

[32] Mobility 2030. https://www.sandag.org/index.asp?classid=13&projectid=197&fuseaction=projects.detail. AccessedMay 2020.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

Please see XVII(a). The project may result in an increase of approximately five trips annually within the City. Section 15064.3 ofthe CEQA Guidelines allows each lead agency to determine its own methodology to evaluate a project's vehicle miles traveled.This particular project requires a unique methodology, since there is no specific land use generating the truck trips; instead, the trips would merely be existing trips, but with different materials on them, and potentially, if every trip had maximized loads, resulting in an increase in single digits in the number of actual vehicles somewhere within the City. Although this potential impact would not be zero, it would be several miles per trip, it would be an unmeasurable increase and would have a less thansignificant impact.

c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	N/A	N/A	N/A	No Impact

Please see I(a). The project would involve no facility that would generate vehicle miles or alter local traffic infrastructure. The project would have no impact.

d) Result in inadequate emergency access?	N/A	N/A	N/A	No Impact

Please see I(a). The project would involve no facility that would generate vehicle miles or impede local emergency access. Theproject would have no impact.

XVIII. TRIBAL CULTURAL RESOURCES:

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of thesize and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

a. Listed or eligible for listingin the California Register of Historical Resources, orin a local register of historical resources as defined in Public Resources Code section5020.1(k), or	N/A	N/A	N/A	No Impact

Please see I(a). The project does not propose any construction, alternation of landform, or other modification to the land. Theproject would have no impact.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	N/A	N/A	N/A	No Impact

Please see I(a). No construction or disturbance to land that could impacts such resources is proposed. The project would have no impact.

XIV. UTILITIES AND SERVICE SYSTEMS: Would the project:

a) Require or result in the relocation construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas,or telecommunications facilities, the construction of which could cause significant environmental effects?	N/A	N/A	N/A	No Impact

The project is a Citywide ordinance restricting the use of polystyrene. No construction or other modification to the physical and built environments is proposed. The project would not create new residences, businesses, or infrastructure that would induce population growth, relocation, or require new or expanded water, wastewater treatment or utilities. Therefore, the project would have no impact on water, wastewater treatment, stormwater drainage, electric power, natural gas, or telecommunications facilities..

b) Have sufficient water supplies available to serve the project and reasonablyforeseeable future development during normal, dry, and multiple dry years?	N/A	N/A	N/A	No Impact

Studies from the European plastics industry show that the production of plastic resins ranges in water use (not including cooling) from 3,378 grams of water per kilogram of high-density polyethylene (HDPE) to 4,828

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

grams of water per kilogram of polyethylene terephthalate (PET)[33,34]. The production of one kilogram of polystyrene resin requires approximately 6,000 grams

(13 pounds, or 8.4 pounds) of water[35]. Using these data, production of substitute plastic products uses 33 to 53 percent less water than production of polystyrene. Likewise, less water is used to manufacture paper replacements when compared to manufacturing polystyrene. However, it is anticipated that the project will increase the weight of products used. As shown in Table 2, it is anticipated that the project would result in an increase in the weight of alternative products, which would result in an increase in water use of up to 18 percent during manufacturing; however, existing manufacturing facilities are expected to have sufficient water supplies.

TABLE 2: POTENTIAL WATER USE ASSOCIATED WITH ORDINANCE

Material Type	Amount Estimated (pounds)	Water Use (gallons/pound)	Total Water Use (gallons)
Polystyrene	6,270,000	20.54	$1.3x10^8$
Paper	10,533,600	12.38	$1.3x10^8$
Alternative Plastic	4,702,500	5.12	$2.4x10^7$

Further, implementation of the project would not create new residences, businesses, infrastructure, or any new water consuming facility that would induce population growth and demand for water. The potential modifications to the materials use, as described in question 8, above, would result in a significant increase in paper product use. Paper is not washable, and thus would reduce water consumption associated with washing a polystyrene or plastic product. With implementation of the ordinance, overall the quantity of washable product would be reduced, and thus the amount of water for washing would also be reduced. Therefore, the project would have no impact on local water supplies.

c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	N/A	N/A	N/A	No Impact

The potential modifications to the materials use, as described in question 8, above, would result in a significant increase in paper product use. Paper is not washable, and thus would not generate wastewater from San Diego residences that might otherwise be washing a polystyrene or plastic product. With implementation of the

[33] PlasticsEurope: Association of Plastics Manufacturers. November 2008a. Environmental Product Declarations of the EuropeanPlastics Manufacturers. High density polyethylene (HDPE). https://www.academia.edu/6913217/Environmental_Product_Declarations_of_the_European_Plastics_Manufacturers. Accessed May 2020.

[34] PlasticsEurope: Association of Plastics Manufacturers. November 2008b. Environmental Product Declarations of the EuropeanPlastics Manufacturers. Polyethyleneterephthalate (PET): Bottle grade. http://uni-obuda.hu/users/grollerg/LCA/italcsomagolas/20100312112214-FINAL_EPD_PET.pdf.. Accessed May 2020.

[35] PlasticsEurope: Association of Plastics Manufacturers. March 2005. Eco-Profiles of European Plastics Industry: Polystyrene (Expandable) (EPS). http://www.inference.org.uk/sustainable/LCA/elcd/external_docs/eps_31116f05-fabd-11da-974d-0800200c9a66.pdf. Accessed May 2020.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

ordinance, overall the quantity of washable product would be reduced, and thus the amount of wastewater from washing would also be reduced. There would be no negative impact on the City's wastewater systems.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste management or waste reduction goals?	N/A	N/A	Less Than Significant Impact	N/A

Because the alternative products may be heavier than polystyrene, using data from WorldCentric, the proposed ordinance could result in an increase of approximately 570 percent in the amount of solid waste disposed as a result of manufacturing, as shown in Table 3. It is expected that existing facilities would be used for this shift in manufacturing and that the existing facilities would be consistent with local planning and would not have an impact on goal attainment. Additionally, as shown in Table 3, the additional weight of the alternative materials (8,966,100 pounds) could require local landfilling[36].

TABLE 3: POTENTIAL INCREASE IN SOLID WASTE PRODUCTION

Material Type	Amount Estimated (pounds)	Manufacturing Waste Rate (pounds of waste per pound of product)	Total Manufacturing Waste (pounds)	Total Waste (pounds)
Polystyrene	6,270,000	0.113	708,510	6,978,510
Paper	10,533,600	2.33	24,543,288	35,076,888
Alternative Plastic	4,702,500	0.029	136,372.5	4,838,872.5

However, it is anticipated that the recycling and/or composting rate of the alternatives will be significantly higher than for polystyrene, and at least a small amount of source reduction (estimated to be less than five percent) would occur. Additionally, consistent with planning for the Zero Waste Plan, which is a component of the City's enforceable Climate Action Plan, moving to more recyclable and/or compostable options is necessary. Promoting recyclability and recycled content in consumer products is a primary motivation for ordinance enactment and is expected to facilitate plan achievement. A significant proportion of theplastic and paper alternatives (estimated, consistent with the Zero Waste Plan projections, to be approximately 75 percent) is anticipated to be recycled or composted. Attainment of the recycling target would not be possible with continued use of polystyrene; therefore, the project would assist with compliance with State solid waste management goals and mandates. Therefore, the project would have a less than significant impact on solid waste management.

e) Comply with federal, state, and local management and reduction statutes and regulation related to solid	N/A	N/A	N/A	No Impact

[36] WorldCentric. 2013. Energy Savings. http://www.worldcentric.org/sustainability/energy-savings.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

waste?

As explained above in answer XIV(d), replacement of polystyrene with more recyclable options would be consistent with the primary goals of state laws such as Assembly Bill (AB) 939 and AB 341, which aim to increase waste diversion by means of source reduction, recycling, and composting, with even a small concession made to some transformation processes. The City currently exceeds AB 939 requirements of solid waste diversion[37] and is close to meeting AB 341 requirements of diverting 75 percent of solid waste by December 31, 2020. The project would result in a shift to more easily diverted products; therefore, it would facilitate compliance with solid waste regulations. The ordinance would have no negative impact on solid waste management.

XV. WILDFIRE: Would the project:

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	N/A	N/A	N/A	No Impact

As explained in I(a), there are no proposed construction activities, or other modification to the physical or built environment. Implementation of the proposed ordinance would not impair the execution of emergency response or evacuation plans and would have no impact.

b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolledspread of a wildfire?	N/A	N/A	N/A	No Impact

As explained in I(a), there are no proposed construction activities, or other modification to the physical or built environment. Implementation of the proposed ordinance would not produce any buildings or occupants and associated fire hazards. The ordinance would have no impact.

c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate	N/A	N/A	N/A	No Impact

[37] The City currently has a diversion rate of 66 percent. https://www.sandiego.gov/environmental-services/miramar

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact

fire risk or thatmay result in temporary orongoing impacts to the environment?

As explained in I(a), there are no proposed construction activities, or other modification to the physical or built environment.Implementation of the proposed ordinance would not produce any buildings that would require fire breaks, water sources, or public utilities. The ordinance would have no impact.

d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	N/A	N/A	N/A	No Impact

As explained in I(a), there are no proposed construction activities, or other modification to the physical or built environment.Implementation of the proposed ordinance would not produce any buildings or alter any drainage or runoff patterns, nor promote ground instability. The ordinance would have no impact.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

a) Does the project have the potential to degrade the quality of the environment,substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community,reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	N/A	N/A	N/A	No Impact

No construction or ground disturbing activities, or other modification to the physical or built environment are proposed. Implementation of the proposed ordinance is anticipated to reduce polystyrene litter in the urban area and in habitat areas and waterways, potentially reducing harm associated with this type of litter. The project would have no impact on historic, archaeological, cultural, or tribal cultural resources because no construction or ground disturbing activities are proposed. Therefore, the project would have no impacts on wildlife habitat, wildlife species, or historic resources.

Issue	Potentially SignificantImpact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, andthe effects of probable futures projects)?	Potentially Significant Impact	N/A	N/A	N/A

The project proposes no physical alteration to the environment, and therefore would typically not be considered to have any cumulatively significant impacts. Cumulative impact analyses typically look at the physical effects of a project together with anticipated similar developments in the same region. However, in the case of this project, the scale is broadened within the category of air quality and greenhouse gas impacts, because the scale at which such impacts occur may be global. Thus, although no development impacts would occur within the region as a result of the project, the air quality and greenhouse gas life-cycle analysis are, in effect, potential cumulative impacts. Furthermore, several government agencies have imposed similar ordinances restricting the sale and distribution of polystyrene and single-use plastic products; in this aspect also, the project may have cumulative impacts. The project is therefore considered to have a potentially significant cumulative air quality and greenhouse gas impacts.

c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	N/A	N/A	N/A	No Impact

Implementation of the project would be expected to result in a shift in consumer behavior. However, alternative materials that are equally convenient would be allowed as replacement products, and the replacement products are anticipated to be more readily recyclable or compostable than polystyrene, and thus more compatible with waste reduction environmental goals. Product modification is not anticipated to have a long-term adverse impact on human beings. Therefore, the project would have no impact.

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XII. MINERAL RESOURCES

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XVI. RECREATION

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XVII. TRANSPORTATION/TRAFFIC

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XIX. UTILITIES AND SERVICE SYSTEMS

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Comment Letters

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December 7, 2020

Rebecca Malone
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9485 Aero Drive, MS 413
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Re: 2020120099, Polystyrene Ordinance Project, San Diego County

Dear Ms. Malone:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- **a.** A brief description of the project.
- **b.** The lead agency contact information.
- **c.** Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- **d.** A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

- **a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- **a.** Alternatives to the project.
- **b.** Recommended mitigation measures.
- **c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

- **a.** Type of environmental review necessary.
- **b.** Significance of the tribal cultural resources.
- **c.** Significance of the project's impacts on tribal cultural resources.
- **d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- **a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
- **b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:

a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or

b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

a. Avoidance and preservation of the resources in place, including, but not limited to:

i. Planning and construction to avoid the resources and protect the cultural and natural context.

ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.

b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:

i. Protecting the cultural character and integrity of the resource.

ii. Protecting the traditional use of the resource.

iii. Protecting the confidentiality of the resource.

c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).

e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).

f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.

b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.

c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
    a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
    b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: http://nahc.ca.gov/resources/forms/.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
    a. If part or all of the APE has been previously surveyed for cultural resources.
    b. If any known cultural resources have already been recorded on or adjacent to the APE.
    c. If the probability is low, moderate, or high that cultural resources are located in the APE.
    d. If a survey is required to determine whether previously unrecorded cultural resources are present.

2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
    a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
    b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
   a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
   b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
   a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
   b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
   c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Andrew.Green@nahc.ca.gov.

Sincerely,

Andrew Green

Andrew Green
Cultural Resources Analyst

cc: State Clearinghouse

[EXTERNAL] Polystyrene EIR - Reasonable Alternatives

M'Porte <mporte.info@gmail.com>

Wed 12/16/2020 1:39 PM

To: PLN_PlanningCEQA <planningceqa@sandiego.gov>

This email came from an external source. Be cautious about clicking on any links in this email or opening attachments.

Formal Scoping Question -

Would the city of San Diego consider a reusable takeout program as a reasonable alternative to single use polystyrene containers?

Our zero waste takeout program is currently running in North County, and is in preliminary conversations with multiple north county cities including Del Mar, Encinitas, and Oceanside to subsidize the entrance into our zero waste takeout program for restaurants as a means of getting closer to zero waste.

Thank you for your consideration, and I would be happy to add additional comments or answer any questions you may have.

Thank you,

PS - Apologies for the multiple emails - and thank you for hosting the meeting today,

Brian Macdonald

www.mporteco.com

@mporteco on Instagram

San Diego, CA

Rincon Band of Luiseño Indians

CULTURAL RESOURCES DEPARTMENT

One Government Center Lane | Valley Center | CA 92082
(760) 749-1051 | Fax: (760) 749-8901 | rincon-nsn.gov

December 30, 2020

Sent via email: PlanningCEQA@sandiego.gov
City of Sand Diego
Planning Department
Rebecca Malone
9485 Aero Drive, M.S. 413
San Diego, CA 92123

Re: Polystyrene Ordinance for the City of San Diego

Dear Ms. Malone,

This letter is written on behalf of Rincon Band of Luiseño Indians, ("Rincon Band" or "Band"), a federally recognized Indian Tribe and sovereign government.

The Band has received the notification for the above referenced project. The location identified within project documents is not within the Band's specific Area of Historic Interest (AHI). At this time, we have no additional information to provide. We recommend that you directly contact a Tribe that is closer to the project and may have pertinent information.

Thank you for submitting this project for Tribal review. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635 or via electronic mail at crd@rincon-nsn.gov.

Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Cheryl Madrigal
Tribal Historic Preservation Officer
Cultural Resources Manager

Bo Mazzetti, Chairman | Tishmall Turner, Vice Chair | Laurie E. Gonzalez, Council Member | Alfonso Kolb, Sr., Council Member | John Constantino, Council Member

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File No. 049078-0007

January 4, 2021

VIA E-MAIL

City of San Diego City Council
Care of City Clerk
202 C St., Second Floor
San Diego, CA 92101
E-mail: cityclerk@sandiego.gov

Rebecca Malone
Senior Environmental Planner,
City of San Diego Planning Department
9485 Aero Drive, M.S. 413
San Diego, CA 92123
PlanningCEQA@sandiego.gov

Re: Comments on City of San Diego's Notice of Preparation of Draft PEIR and Associated Initial Study Checklist for a Proposed Ban on Polystyrene Foam Products in the City of San Diego

Honorable Council President and City Council and Ms. Malone:

We represent Dart Container Corporation. We appreciate the opportunity to submit these comments on this matter. With the City's Notice of Preparation and Initial Study Checklist, it has correctly recognized that a foam ban in the City may have potentially significant environmental effects that must be studied, mitigated, and considered under the law, and would potentially cause significant harm to the very environmental resources the City seeks to protect. Also, product bans can have unintended, material consequences to human health. But the City in the Notice of Preparation proposes to limit the environmental review improperly to air quality, greenhouse gases, and utilities and service systems. As described further below, the proposed ban would have much broader potential impacts than just these, and the City should prepare a full EIR studying all potential impacts areas.

In these comments, we address a number of issues that warrant further attention from, and deliberation by, the City in its draft EIR:

A. A ban would have significant impacts on the environment and its effect on human health, including localized impacts in the City of San Diego;

B. Enacting a ban in the current pandemic environment may have a significant impact on public health and the ability of local government and business to enact all appropriate precautions to slow the spread of the coronavirus;

C. Enacting a ban in the current pandemic environment poses a significant risk of causing the closures of local businesses, leading to land use & planning impacts;

D. Given the potential of serious environmental and public health impacts from a foam ban, the City must include a full analysis of viable alternatives.

Given the brief time to submit this comments on the Notice of Preparation, these comments are necessarily preliminary. We anticipate commenting further during the CEQA process, and we urge the City to prepare a full EIR that analyzes all impact areas.

A. A ban would have significant impacts on the environment and human health, including localized impacts in the City of San Diego.

As noted in our previous comments to the City on this issue, a foam ban may have a number of significant impacts. While the Initial Study Checklist correctly recognizes that such significant impacts may include those regarding greenhouse gas emissions and air quality, it fails to acknowledge the well-recognized substitution impact of foam product bans and that a ban may also have significant impacts on biological resources, forest resources, hydrology & water quality, litter, energy, and environmental justice. These other impacts must be studied in detail in the draft EIR.

As has been well established in scientific research and empirical data, bans of polystyrene foam result in product substitution with no reduction in overall trash. Data from the City of San Francisco's street litter audits before and after the city adopted a polystyrene foam ban show this substitution effect.[1] Data from Santa Cruz corroborates this substitution effect: a ban on foam changed the composition of trash collected on beaches, but "total mass of trash on the beach [] remained relatively constant since a ban was enacted in 2007 and enforced in 2008."[2] This substitution effect means that, "if one particular type of container, bag or food service ware is banned (i.e., plastic/polystyrene) whatever material takes its place will in all likelihood be discarded and introduced into the storm drain[.]"[3]

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1 Dr. Mark Grey, *Proposed Polystyrene Foam Food Ware Ban in San Jose Will Not Reduce Trash Loads in Storm Drains and Receiving Waters*, at Ex. 1, p. 2 (Aug. 2013) [hereinafter *2013 Grey Technical Report*]. The *2013 Grey Technical Report* is attached hereto as **Exhibit 1**.

2 *Id.*

3 Michael Harding, *Comments on Bay Area Stormwater Management Agencies Association's Preliminary Baseline Trash Generation Rates for San Francisco Bay Area MS4s and Trash Load Reduction Tracking Method* (Mar. 2012) [hereinafter *Harding Report*]. The *Harding Report* is attached hereto as **Exhibit 2**.

Other agencies in California agree that the substitution effect occurs and that bans are generally ineffective in reducing total litter and trash. For instance, in 2001, the California Legislature adopted Senate Bill 1127, which required the California Integrated Waste Management Board (CalRecycle's predecessor agency) to conduct a comprehensive study of the "use and disposal of polystyrene in the state." In its 2004 report, the Board made the following findings regarding the efficacy of polystyrene foam bans:

- Single-product "[b]ans are narrow in scope, addressing a very specific problem with a very specific solution. This narrow approach is an ineffective means of addressing a material with the global applications and ramifications of plastics";[4]
- Bans are "not an effective long-term solution";[5]
- "[U]sing biodegradable food service products alone"—as might result from a ban—"will not eliminate litter problems"; indeed, "[s]ome have argued that it may even increase litter if consumers believe that it no longer poses an environmental problem".[6]

In 2008, DTSC came to a similar conclusion as CalRecycle. In its final report on the California Green Chemistry Initiative, DTSC recognized "[p]oorly conceived actions like bans that do not consider alternatives and often create new problems when substitutions are made" as one of the obstacles effectively addressing California's waste.[7]

More recently, the State Board—which together with the Regional Boards is California's primary regulatory body for water quality—undertook a five-year administrative process to develop its Amendment to the Water Quality Control Plan to Control Trash.[8] As part of this exhaustive administrative process, the State Board agreed that polystyrene foam bans do not reduce overall trash:

> Data from the City of San Francisco's Streets Litter Re-Audit report confirmed that eliminating all food-related polystyrene would simply change the type of litter found on our streets and in our waterways, and result in an increase in the non-polystyrene related

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4 California Integrated Waste Mgmt. Bd., *Use and Disposal of Polystyrene in California*, at 6 (Dec. 2004) [hereinafter *CalRecycle 2004 Report*]. The *CalRecycle 2004 Report* is attached hereto as **Exhibit 3**.

5 *Id.*

6 *Id.* at 13.

7 Cal. EPA & DTSC, *California Green Chemistry Initiative Final Report*, at 2 (Dec. 2008). The *California Green Chemistry Initiative Final Report* is attached hereto as **Exhibit 4**.

8 State Board, Trash Control in State Water, https://www.waterboards.ca.gov/water_issues/programs/trash_control/ (last accessed Dec. 29, 2020).

> litter items, thus, showing no overall reduction in litter (or trash to the waterways) (City of San Francisco 2008).[9]

The State Board also found that, because of the substitution effect, a ban of polystyrene foam would have significant environmental impacts:

> [B]ans on polystyrene food containers would cause a shift to materials with other significant environmental impacts (University of California at San Diego 2006). [10]

In sum, the California regulators with key authority over waste and water quality have found that bans are ineffective and that they merely result in the substitution of one type of litter for another. The City must address this in the draft EIR and, specifically, the environmental impacts that may result.

1. Biological Resources & Forest Resources

A foam ban will necessarily lead to the use of alternative products, which in turn may increase the use of certain chemicals and substances which will have further environmental and health impacts, including impacts to biological resources in waterways. For example, paper-based product manufacturing impacts forests and other biological resources, and increases GHG emissions through increased harvesting, which could be significant.[11] As another example, the papermaking process demands large amounts of fresh water and produces large quantities of wastewater, more so than foam.[12] Wastewater discharges for pulp and paper mills contain chemicals, including lignin, cellulosic compounds, phenols, mercaptans, sulfides, and chlorinated compounds. These chemicals have toxic effects on marine life and species.[13]

2. Hydrology & Water Quality

Foam has less impact on the marine environment than substitute products. A ban on expanded polystyrene ("EPS") foam would cause new impacts on the marine environment. EPS foam is a much smaller contributor to litter in marine environments than other materials.[14] And

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[9] State Water Resources Control Board, *Amendment to the Water Quality Control Plan for the Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California*, at A-19 (Apr. 7, 2015) [hereinafter *State Board Environmental Analysis*]. The *State Board Environmental Analysis* is attached hereto as **Exhibit 5**.

[10] *Id.*

[11] Ramboll, *Research Regarding the Environmental Impacts of Substitutes to EPS*, at 4 (Oct. 2018) [hereinafter *Ramboll Report*]. The *Ramboll Report* is attached hereto as **Exhibit 6**.

[12] *Id.* at 2–3.

[13] *Id.* at 9–10.

[14] *Id.* at 2–3.

alternative products do not biodegrade in marine environments. Almost all biodegradable plastics are designed to break down in soil, not water. Hence, issues similar to conventional plastics can be anticipated for biodegradable plastics.[15]

Polystyrene foam is not a major contributor to plastic debris in the ocean.[16] Moreover, studies do not show foam to be a hazard to marine life.[17] Globally, marine litter is composed of 67% non-EPS plastic, whereas EPS itself only makes up 5%.[18] In fact, Ramboll concludes that non-EPS plastics are of a particular concern in the marine environment because they are more prevalent in micro-litter (<5 mm pieces) compared to other materials.[19] Micro-litter in the water column is 95.2% non-EPS plastic and 1.6% EPS. At the ocean surface, these numbers are 94.4% and 3.5%, respectively.[20] This represents a much higher ratio of non-EPS plastic to EPS in micro-litter compared to overall ocean waste.[21]

3. Litter

A foam ban would result in an increase in the amount of material sent to recycling and landfilling facilities—EPS is almost 95% air; it generates less solid waste both in weight and volume than other comparable alternative products.[22]

Polystyrene foam is readily recyclable.[23] In fact, polystyrene foam is already being recycled by dozens of cities across California, and there is a market for recycled foam with both

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15 *Id.* at 16.

16 Dr. Angelique White, *Comments on Amendments to Statewide Water Quality Control Plans to Control Trash*, at 2 (Aug. 2014) [hereinafter *Dr. White Report*]. The *Dr. White Report* is attached hereto as **Exhibit 7**.

17 *Id.* at 3.

18 *Ramboll Report* at 3.

19 *Id.* at 11.

20 *Id*.

21 As conceded by the Initial Study, a ban would result in potentially increased greenhouse gas emissions, which also has the potential to impact the oceans "in far more profound ways than marine debris does . . . ." *Dr. White Report* at 1.

22 *Ramboll Report* at 2.

23 Dr. Mark Berkman & Dr. David Sunding, The Brattle Group, *Comments on the Draft Amendments to Statewide Water Quality Control Plans to Control Trash*, at 23 (Aug. 2014) [hereinafter *2014 Brattle Group Report*]. The *2014 Brattle Group Report* is attached hereto as **Exhibit 8**.

buyers and sellers.[24] Companies are currently using recycled foam to produce products like picture frames, crown molding, baseboards, and flower pots.[25]

The need for foam by restaurants during the pandemic may provide an avenue to create a recycling program in San Diego. Throughout the pandemic and certainly during the early and recent lock-downs, the use of EPS foam to satisfy to-go orders has benefited both restaurants and consumers. Restaurants could be utilized as return and collection locations for EPS foam and could provide incentives for the return of clean material. A reduction in the number of collection points in the City could enhance an EPS recycling program in San Diego.

Use of polystyrene foam can help California meet its important recycling goals. The Legislature has established a target of recycling 75% of the state's waste by 2020.[26] Whereas polystyrene form is readily recyclable, alternative products often are not. For example, paper cups have a plastic liner that makes them difficult to recycle. "Most waste management facilities will treat the cups as trash."[27] The City of San Diego has a 2040 goal of sending no waste to landfills.[28] Meeting this aggressive goal will require promoting use of materials that can be readily recycled, like polystyrene foam.

Dart Container Corporation actively promotes recycling initiatives for both individuals and large end-users of foam. Dart sells Recycla-Paks, which allow customers to purchase a corrugated container from Dart that serves as a foam cup collection device as well as a shipping container.[29] Similarly, Dart's CARE (Cups Are REcyclable) program enables customers a cost-effective way to collect and densify foam for recycling.[30]

In addition, recent changes to China's waste importation policies will impact recycling efforts in southern California and throughout the state. California's annual recycling reports show that as much as 60 percent of California's recyclables are exported to China, the majority

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24 *Id.*

25 *Id.*

26 PUB. RES. CODE § 41780.01(a).

27 Livia Albeck-Ripka, *6 Things You're Recycling Wrong*, NEW YORK TIMES (May 29, 2018), *available at* https://www.nytimes.com/2018/05/29/climate/recycling-wrong-mistakes.html (attached hereto as **Exhibit 9**).

28 City of San Diego, *Zero Waste Plan* (June 2015), *available at* https://www.sandiego.gov/sites/default/files/legacy/mayor/pdf/2015/ZeroWastePlan.pdf (last accessed Dec. 29, 2020).

29 Dart Container, *About Recyla-Pak*, https://www.dartcontainer.com/sustainability/sustainability-commitments/recycla-pak/ (last accessed Dec. 30, 2020).

30 Dart Container, *Home for Foam*, https://www.homeforfoam.com/homes-and-businesses (last accessed Dec. 29, 2020).

of which is mixed paper and old corrugated cardboard (OCC).[31] China's new policy restricts the importation of these materials, some of which are recyclables.[32] This makes it even more important for California and San Diego not to restrict the use of products, like polystyrene foam, that are readily recyclable and have a market.

4. Energy

A foam ban would result in increased energy consumption. The life cycle of foam containers consumes less energy than that of alternative products. [33]

5. Environmental Justice

A foam ban would also disproportionately impact environmental justice communities, by raising the cost of food at restaurants that are located in or near environmental justice communities. All alternatives to foam food service containers have a higher average cost-per-item.[34] A ban would burden environmental justice communities with increased costs while at the same time increasing environmental impacts. This unintended consequence of a ban is the opposite of the policies the City is striving to achieve and is particularly salient during the coronavirus epidemic where most prepared food may only be obtained via takeout or delivery, which requires the use of single-use materials like foam containers.[35]

6. Greenhouse Gas Emissions and Air Quality

The Initial Study correctly admits that a foam ban may have potentially significant impacts regarding GHG emissions and air quality. In the draft EIR's study and analysis, all relevant facts and evidence should be considered.

A product ban may interfere with the City's ability to attain greenhouse gas emission reduction goals.[36] Banning EPS would result in the use of substitute products, some of which have been shown to have a larger GHG emissions footprint.

Specifically, EPS foam clamshell food containers have lower greenhouse gas emissions per functional unit than higher-grade polymers like PET (EPS is 32% lower) and PP (EPS is 9%

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31 *Ramboll Report* at 11–12.

32 *Id.* at 12.

33 *2014 Brattle Group Report* at 17.

34 *2014 Brattle Group Report* at 9–16.

35 City of San Diego, *Climate Action Plan*, at 49 (Dec. 2015) ("The City's General Plan recognizes the importance of addressing environmental justice through equal access to and meaningful participation in the decision-making process and the need to ensure the equitable distribution of public facilities and services."), *available at* https://www.sandiego.gov/sites/default/files/final_july_2016_cap.pdf.

36 *Id.*

lower).[37] A shift to an alternative polymer could lead to an increase in net greenhouse gas emissions. And EPS cups have a 39% lower life cycle global warming potential than coated paperboard cups (21% lower even without the insulating sleeve) and 34% lower than solid polylactic acid (PLA) cups.[38] Therefore, a ban on EPS would impede the state's and the City's efforts to reduce GHG emissions.

A ban may also result in significant impacts to air quality. Production of common plastic substitutes to EPS, polyethylene terephthalate (PET) and polypropylene (PP)—results in greater particulate emissions (PM_{10}) compared to EPS on a "per-cup" basis.[39] EPS has lower uncontrolled VOC emissions than paper or PET products.[40] Compostable materials have potential environmental impacts since composting facilities have meaningful air emissions (e.g., bioaerosols, volatile organic compounds) that should be evaluated.[41]

7. Impacts to Recreation and Tourism

One of the most important recreational past-times in San Diego is surfing. Surf boards are made with an EPS foam core, and although many boards are covered in fiberglass, these types of boards are typically expensive to purchase. This is why "foam top" boards, which are not encased in fiber glass, have become popular substitutes for beginner surfers and are used to teach tourists the sport of surfing. Hundreds of surf shops sell or rent these types of boards to beginning surfers, while hotels and resorts lend them to their guests for use. The EIR must analyze the impacts of requiring these businesses to use significantly more expensive hard shell boards due to the proposed ban. In addition, the elimination of foam top boards would increase the price of entry for youth seeking to get involved in surfing and could more significantly impact low income youth seeking ways to enjoy San Diego beaches.

Recreational products such as pool-noodles, water-wings, pool-floats, and others are commonly used at beaches, pools, lakes and other recreational areas with water throughout the City. Even safety devices such as life-preserver rings and life vests can be made from EPS foam that is not encased in another material. The impact of removing these recreational toys and safety equipment from use should be thoroughly reviewed in the EIR.

8. Impacts on Theatrical and Arts Organizations

EPS foam is often carved and painted and used in theatrical productions. Whether it be the Greek columns of the acropolis in an Opera or the rocks on a shipwreck beach in a theater production of the Tempest, EPS foam allows for the creation of unique, lightweight, and lower cost forms that transport theater patrons to new locales. If arts groups are unable to use EPS

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37 *Ramboll Report* at 9.

38 *Id.*

39 *Id.* at 7.

40 *Id.*

41 *Id.* at 8.

foam, it would impact their ability to produce works for audiences, causing both an economic as well as cultural impact on the community, which must be evaluated in the EIR.

B. Enacting a ban in the current pandemic environment may have a significant impact on public health and the ability of local government and business to enact all appropriate precautions to slow the spread of the coronavirus.

First, at this critical juncture in the pandemic, the City of San Diego's pursuit of a foam ban is a regulatory course that could put healthcare agencies in a particularly difficult situation. The first round of vaccines are being delivered to hospitals across America, and those vaccines are packaged in EPS foam to keep them at the minus-70 degrees Celsius temperature required, as well as to prevent this important cargo from damage.[42] EPS foam provides exceptional insulating properties. As more new drugs and vaccines are invented that need to be shipped at extremely low temperatures, EPS foam may be an important part of the supply chain.

In addition, EPS foam is used in the packaging of other important medicines and medical devices to ensure safe delivery to healthcare workers. Requiring a hospital to navigate a maze of regulations and local rules for EPS foam use could potentially limit the availability of medicines or devices or require costly alternative packaging for a single jurisdiction. The EIR must analyze the impact of the ban on the healthcare industry and the ability for this sector to function in both disaster and normal circumstances in the event a ban were enacted.

A ban of polystyrene foam would deprive consumers of a safe choice that may have benefits over alternatives regarding protection from foodborne illness and communicable diseases, which is particularly important under the current circumstances of the coronavirus epidemic. A literature review conducted by The Acheson Group found a number of potential human health impacts associated with substituting alternative products for EPS products.[43] For example, one study found that paper and cardboard surfaces are porous and full of pits and crevices where microorganisms can become entrapped.[44] On the other hand, plastic packaging surfaces were shown to be smooth and homogeneous with occasional scratches, but far fewer pits and crevices than paper and cardboard surfaces.[45] Another study, finding bacterial contamination in cardboard packaging, calls to question whether there are greater health risks associated with cardboard food service ware products versus plastic food service ware products.[46] Questions about whether EPS food service ware is easier to clean than paper and

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[42] E.g., AP News, *Indiana Plant Ramps up Work on Coolers for COVID-19 Vaccines* (Dec. 13, 2020); https://apnews.com/article/new-albany-indiana-coronavirus-pandemic-14f45315d160f45e19118d40bb566201.

[43] The Acheson Group, *Expanded Polystyrene Report* (October 2018) [hereinafter *TAG Report*]. The *TAG Report* is attached hereto as **Exhibit 10**.

[44] *Id.* at 3.

[45] *Id*. at 9.

[46] *Id.* at 4.

cardboard food service ware must also be investigated before a ban, which would substitute EPS with more paper and cardboard food service ware, is enacted.[47]

Indeed, the County of San Diego's Covid-19 *Safe Onsite Food and Beverage Plan* notes that "to meet the requirements of the public health measures issued by the Governor of California, San Diego County will implement the measures outlined in this document," which include "Ensure that all utensils and food-ware are properly washed, rinsed and sanitized. Verify the required contact time (the time the utensils must be submerged in the sanitizer) for the sanitizer to be effective occurs. If this cannot be reasonably accommodated, only single-service utensils or food-ware should be used." Restaurants may find it difficult to comply with this County rule without the availability of EPS food containers.

Further, increased manufacturing of substitute paper products might result in increasing the amount of dioxin entering the environment. As the Ramboll Report states:[48]

> The pulp and paper industry was responsible for 4.4% of TRI-reported water releases of dioxin and dioxin-like compounds in 2013. These chemicals are particularly problematic because even a small concentration of them can have toxicological effects on humans and the ecosystem where they are released. For example, dioxin pollution in the Great Lakes area has been cited as the cause of developmental toxicity, reproductive impairment, compromised immune function, and other health effects in multiple vertebrate species. Similar phenomena have been observed at the Baltic Sea where this issue has extended to human health effects as a consequence of exposure to dioxin compounds via the consumption of fish living in the polluted waters.

Given how highly absorbent recycled paper products are, the Acheson Group questions whether there could be higher exposure to dioxins from use of these products.[49]

C. Enacting a ban in the current pandemic environment poses a significant risk of causing the closures of local businesses, leading to land use & planning impacts.

A ban of EPS food containers in the City of San Diego would have unintended economic consequences and impose significant costs on San Diego consumers and businesses. A 2014 economic analysis by Dr. David Sunding, an economist at the College of Natural Resources at the University of California, Berkeley, and Dr. Mark Berkman, an expert in applied microeconomics with a Ph.D. from The Wharton School of the University of Pennsylvania,

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47 *Id.* at 16.

48 *Ramboll Report* at 10.

49 *TAG Report* at 18–19.

found that, if every city in California adopted a foam ban, the costs to consumers, schools, and healthcare providers could be very large:[50]

- Total costs to California consumers could easily reach $238 million per year;
- Costs to California's school system could be $42 million per year; and
- Costs to California healthcare industry could be over $1 million per year, and "would likely be significantly higher."

Businesses, consumers, and residents in the City of San Diego would bear significant costs if the City adopts a ban. This impact would be particularly compounded under the current circumstances of the coronavirus pandemic where food-service businesses are only permitted to do business using take-out and delivery, making single-use products such as foam containers absolutely necessary for their business. In addition, a ban in the City of San Diego would disadvantage City of San Diego businesses over those in adjacent cities within the County, making San Diego products and services more expensive relative to other cities. The effect of this could be the leakage of customers to businesses outside the City of San Diego, which could injure those local businesses, and further reduce tax revenue to the City of San Diego.

Courts have long held that urban decay or physical deterioration stemming from business closures is an environmental issue to be evaluated in an EIR.[51] Deterioration of local communities is a "very real problem that directly impacts the quality of our daily life."[52] In fact, "experts are now warning about land use decisions that cause a chain reaction of store closures and long-term vacancies, ultimately destroying existing neighborhoods and leaving decaying shells in their wake."[53] If "forecasted economic or social effects of a proposed project directly or indirectly will lead to adverse physical changes in the environment, then CEQA requires disclosure and analysis of these resulting physical impacts."[54] "[W]hen there is evidence . . . that economic and social effects caused by a project, such as a shopping center, could result in a

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50 *2014 Brattle Group Report* at 9–15.

51 See, e.g., *Citizens for Quality Growth v. City of Mt. Shasta* (1998) 198 Cal.App.3d 433, 445–46 (holding that a proposed project's potential to cause closure of existing businesses should be considered in an EIR as an indirect environmental effect of the project); *Citizens Ass'n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151, 169 (The "lead agency must consider whether the proposed shopping center will take business away from the downtown shopping area and thereby cause business closures and eventual physical deterioration of downtown Bishop").

52 *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1220.

53 *Id.* at 1204.

54 *Id.* at 1205.

reasonably foreseeable indirect environmental impact, such as urban decay or deterioration, then the CEQA lead agency is obligated to assess this indirect environmental impact."[55]

As noted, in light of the pandemic's devastating effect on the San Diego economy—by some measure the worst since the Great Depression[56]—the EIR must evaluate the impact of the foam ban on urban decay and deterioration from the closure of local businesses (in particular restaurants and other businesses that rely on foam) due to increasing costs of their products or packaging from the inability to buy or use EPS foam.

D. Given the potential of serious environmental and public health impacts from a foam ban, the City must include a full analysis of viable alternatives and mitigation measures.

Under CEQA, "the key to the selection of the range of alternatives is to identify alternatives that meet most of the project's objectives but have a reduced level of environmental impacts."[57] Given that bans are ineffective in reducing trash in the waste stream and have significant environmental impacts, it is especially important for the City to analyze alternatives to the ban. These alternatives could include, for example:

- Enhanced recycling, producer responsibility, and product stewardship approaches, which have been proven to work in some areas of California;[58]
- Incentives and support for proven measures such as structural controls;[59]

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55 *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182.

56 County of San Diego, *Annual Report 2019–20*, https://www.sandiegocounty.gov/content/sdc/annualreport/en/home/economic-impact.html (last accessed Dec. 22, 2020) ("Nationally, the unemployment rate jumped from 3.5% in February to 14.7% in April, the worst since the Great Depression. The U.S. Labor Department reported 20.5 million people had lost their jobs. The San Diego Association of Governments reported the local unemployment rate skyrocketed from 3.1% before COVID-19 to 25% in May. **An estimated quarter of a million San Diegans were unemployed.**") (emphasis in original); *see also* City News Service, *San Diego Region Projected To Lose $12.4 Billion In 2020 Due To The Pandemic*, KPBS.ORG (Oct. 15, 2020), *available at* https://www.kpbs.org/news/2020/oct/15/san-diego-region-projected-lose-124-billion-2020-d/ ("According to the SANDAG report, which looks at the first six months following stay-at-home orders, $4.8 billion in wages were lost and more than 176,000 people in San Diego County lost their jobs. The report also found that a disproportionate impact of job losses landed on women, minorities, lower-income earners and younger employees.").

57 *Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089.

58 *See, e.g.*, Dr. Mark Berkman & Dr. David Sunding, The Brattle Group, *Economic Analysis of San Jose's Proposed Polystyrene Ban*, at 14–16 (Feb. 2012) [hereinafter *2012 Brattle Group Report*]. The *2012 Brattle Group Report* is attached hereto as **Exhibit 11**.

59 *See, e.g.*, *2013 Grey Technical Report* at 8.

- A material-neutral approach based on sound science, which accounts for the substitution effect, reduces overall trash in the waterways, and results in real waste stream improvements.[60]
- An alternative that encourages waste reduction and recycling in developing countries, where much of marine waste originates.[61]

The analysis must quantify the impacts of different alternatives in a way that allows the public and the City to compare the environmental impacts of different alternatives.[62]

For example, an alternative that supports on-going projects such as the National Oceanic and Atmospheric Association's ("NOAA") Marine Debris Program in the Tijuana River National Estuary which captures plastics and other trash which wash into the estuary from Tijuana, Mexico, may be more effective than a ban in San Diego.[63] Countries like Mexico with limited trash collection capacity are more susceptible to the intrusion of plastic wastes into the marine environment. Therefore, expansion of programs in Mexico or at the border that capture trash before it enters the ocean, are likely more effective economically and from the pounds of trash diverted, than wholesale bans. It should be noted that in the NOAA program, styrofoam and EPS foam only account for 5% of the solid waste captured in the Goat Canyon Sediment Basin Complex of the Tijuana Estuary, while 30% are single use plastics, and 20% are tires.[64] San Diego has a modern trash collection system that diverts most trash from being able to enter the marine environment. As noted earlier, foam bans have been documented to increase trash overall and therefore increase the potential for litter to enter the marine ecosystem. If the goal of the City is to reduce transmission of plastics to the ocean, the goal may be more successful by participating in the creation programs that divert trash from Mexico into the ocean like the one in Goat Canyon.

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60 *See, e.g.*, *id.* at 10 (trash load reduction actions such as hot-spot clean up, street sweeping, and storm drain maintenance result in verified and quantified reductions in trash loads and volumes).

61 Sandra Laville, *Diverting Aid to Fund Waste Collection Will Save Lives and Clean the Ocean, Says Charity*, THE GUARDIAN (Dec. 21, 2017), *available at* https://www.theguardian.com/environment/2017/dec/21/diverting-aid-to-fund-waste-collection-will-save-lives-and-clean-the-ocean-says-charity.

62 *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 735.

63 U.S. NOAA Marine Debris Program Office of Response and Restoration, *Tijuana River National Estuarine Research Reserve Marine Debris Cleanup and Reduction Program*, https://marinedebris.noaa.gov/removal/tijuana-river-national-estuarine-research-reserve-marine-debris-cleanup-and-reduction (last accessed December 21, 2020).

64 U.S. NOAA, *Goat Canyon Sediment Basins, An Effective Model for Marine Debris Capture in the Tijuana River Watershed*, https://marinedebris.noaa.gov/sites/default/files/Goat%20Canyon%20Trash%20Characterization%20Summary%20Brochure.pdf.

And because an EPS ban will cause significant impacts, the City must propose and analyze mitigation measures for these impacts.[65] Those mitigation measures should include, but not be limited to:

- Requiring the City to offset the increased carbon emissions due to the ban;
- Requiring the City to purchase renewable energy credits for the increased energy use that ban will cause; and
- Requiring the City to conduct restoration projects to compensate for the increased water use and pollutant discharges that a ban will cause.

These mitigation measures cannot be deferred, and they must be feasible and enforceable.[66]

Conclusion

In sum, a ban is bad policy. There is ample evidence that a ban may have significant environmental impacts that harm the very resources the City is trying to protect. In its EIR for its proposal to ban foam products in the City, the City must analyze these impacts fully and in good faith to inform the public of the drawbacks of this policy and include a full analysis of workable alternatives. The City must prepare a full EIR analyzing all impact areas, not a truncated EIR analyzing only the handful of areas the Notice of Preparation proposes. We are confident that such an analysis will show that a policy emphasizing recycling and litter reduction—rather than a ban of a single material that has many positive environmental and public health attributes—would be the better course for the environment and to meet the City's goals.

Thank you for considering our comments and supporting materials.

Very truly yours,

Daniel Brunton
of LATHAM & WATKINS LLP

Enclosures

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65 PUB. RES. CODE § 21801.

66 *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906 (identification of mitigation may not be deferred); *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 360 (mitigation must be feasible and enforceable).