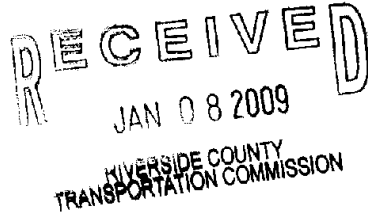


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VIA FEDEX

January 6, 2009

Ms. Cathy Bechtel
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
P.O. Box 12008
Riverside, CA 92502-2208

Mr. Tay Dam
Federal Highway Administration
650 Capitol Mall, Suite 4-100
Sacramento, CA 95814-4708

**Re: Comments regarding Mid County Parkway Project Draft
Environmental Impact Report/Environmental Impact Statement**

Dear Ms. Bechtel and Mr. Dam:

On behalf of First Industrial Realty Trust (First Industrial), we appreciate this opportunity to comment on the Mid County Parkway (MCP) Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS). First Industrial is a publicly traded Industrial Real Estate Investment Trust (NYSE:FR) with corporate offices in Chicago and local offices in Irvine, California. The purpose of this letter is to outline First Industrial's position with respect to the proposed MCP as well as establish our comments to the MCP EIR/EIS in the record.

First Industrial is the owner of four projects (APNs: 317-060-038, 317-070-001, 317-080-016, 317-080-033, 317-080-034, 317-090-010, 317-090-011, 317-150-002, 317-180-007, 317-180-008, 317-180-009, 317-190-003, 317-190-004, 317-190-007, 317-200-003, and 317-220-025; 306-370-008, 306-370-009; 303-170-011 and 303-170-014, and the North West Corner of Rider and Redlands) totaling approximately 639 acres, located south of Cajalco Road and west of Interstate 215 (I 215) in the Community of Mead Valley, unincorporated Riverside County and in the City of Perris at Rider and Redlands. It is our understanding the MCP is a proposed new transportation corridor which runs in an east-west direction from the 15 Freeway at approximately Cajalco to the east crossing I 215 and ending at SR 79 in San Jacinto. Based upon information in the EIR/EIS, it would appear that the proposed MCP will bisect First Industrial's property, thus giving rise to First Industrial's interest in the MCP. Our comments fall into four basic categories—positions related to specific design variations, and clarifications of information related to biological, water and cultural resources. Our detailed comments follow.

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Design Variations

As a developer of industrial projects, infrastructure is among First Industrial's top priorities for development in the area. As such, First Industrial supports the MCP project concept, believes that the roadway will provide much-needed traffic relief in Riverside County, and looks forward to approval of the EIR/EIS as well as hopeful commencement of construction. It is First Industrial's intent to be as accommodating as possible to implementation of the MCP project while maintaining the integrity of its developments.

In review of the proposed alignments for the MCP, First Industrial takes two positions on the alignments affecting its property—Alternative 9 Far South and Alternative 9 Rider Street Design Variation (as identified on Figures 2.4.5a and 2.4.5b of the EIR/EIS). Of the Alternative 9 Far South alignment and the Rider Street Design Variation, First Industrial strongly prefers the Alternative 9 Far South alignment as long as it does not interfere with any possible uses of First Industrial's property, or subject First Industrial to incur additional CEQA or MSHCP mitigation, and in light of the following additional comments:

- Right of Way Land: The Alternative 9 Far South alignment impacts approximately 20 acres of land associated with APNs (317-060-038, 317-070-001, 317-080-016, 317-080-033, 317-080-034, 317-090-010, 317-090-011, 317-150-002, 317-180-007, 317-180-008, 317-180-009, 317-190-003, 317-190-004, 317-190-007, 317-200-003, and 317-220-025). At such time the Riverside County Transportation Commission (RCTC) intends to commence the project, it will be necessary to coordinate the location of the highway with First Industrial's land use plan and compensate First Industrial for the cost of any Right of Way required for the highway.
- Multi-Species Habitat Conservation Plan (MSHCP): The Alternative 9 Far South alignment additionally crosses First Industrial's site in Subunit 1 (Motte-Rimrock) of the MSHCP Mead Valley Area Plan. Portions of the MCP Project Site coincide with Cell Group A (Criteria Cells 2433 and 2536), Cell Group B (Criteria Cells 2432 and 2533), and independent Criteria Cell 2334 of the MSHCP. As such, during the entitlement and HANS process for the MCP, it will be important to coordinate with all local agencies to achieve consistency with the MSHCP.

First Industrial does object to the proposed Alternative 9 Rider Street Design Variation. The Alternative 9 Rider Street Design Variation would impact First Industrial's projects in the area in a much greater way as opposed to Alternative 9 Far South alignment, substantially affecting the ability of First Industrial to make productive use of its land, and potentially would subject RCTC to significant severance damages in connection with RCTC's efforts to acquire First Industrial's property. First Industrial has filed an application with Riverside County to amend its property's General Plan designations in connection with the County's ongoing General Plan Update process, to

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allow for residential, industrial and mixed uses to be developed onsite. The Rider Street Design Variation crosses four separate projects (3 on the east side of I 215 and one on the west side of I 215) which are all in various stages of development. Below please see comments to the referenced alignment. Additional concerns that First Industrial has with the Rider Street Design Variation are:

- Right of Way: The Rider Street Design Variation appears to impact all three of First Industrial's projects on the east side of I 215. It impacts all of APNs 306-370-008, 306-370-009 equating to approximately 16 acres of entitled land with building permits complete, and a graded building pad, a portion of APN 303-170-011 and 303-170-014 which is also entitled land, and a portion of the northwest corner of Rider and Redlands which is scheduled for certification of an EIR and approval of land use entitlements during the first quarter of 2009.
- Additionally, in comparison to the Alternative 9 Far South alignment, the Rider Street Design Variation impacts a much greater amount of APNs 317-060-038, 317-070-001, 317-080-016, 317-080-033, 317-080-034, 317-090-010, 317-090-011, 317-150-002, 317-180-007, 317-180-008, 317-180-009, 317-190-003, 317-190-004, 317-190-007, 317-200-003, and 317-220-025; 306-370-008, 306-370-009, totaling approximately 50 acres and cutting off access from a majority of the site due to geographic features and existing public/quasi-public land.
- The Rider Street Design Variation impacts much greater MSHCP acreage as well on the west side of I-215 as compared with the Alternative 9 Far South alignment. The majority of the additional acreage impacted is in Cell Group A (Criteria Cells 2433 and 2536), Cell Group B (Criteria Cells 2432 and 2533) which will make coordinating for compliance with the MSHCP more difficult and could render First Industrial's site plan useless for the entire project.

Therefore, First Industrial strongly urges that the Rider Street Design Variation not be utilized for the ultimate design of the MCP, and that the Alternative 9 Far South alignment be utilized instead.

Biological Resources

First Industrial has conducted several biological resource surveys and is in the process of conducting additional surveys on its property east of I 215. The First Industrial surveys, conducted in 2007 and 2008 demonstrate the following:

- The majority of First Industrial's property is composed of disturbed lands supporting ruderal vegetation with areas of rock outcroppings surrounded by small patches of low to

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moderate quality Riversidean sage scrub. Several drainage features traverse the First Industrial site supporting riparian vegetation, including southern willow scrub and mulefat scrub. First Industrial's property also supports non-native grasslands, ornamental trees, a small stand of California walnut trees, and a small grove of olive trees. There are numerous dirt access roads throughout First Industrial's property and, as a result, there is an abundance of trash and debris. First Industrial's property is surrounded by rural residential areas and disturbed lands.

- The results of some of the biological surveys conducted at the behest of First Industrial differ with discussions of biological resources contained in the MCP EIR/EIS. Biological resource surveys conducted on the First Industrial property to date have documented the presence of the following species and resources on site: the San Diego black-tailed jackrabbit,¹ the San Diego desert wood rat,¹ California black walnut,² (disturbed) Riversidean sage scrub,³ chaparral san verbena,² California walnut woodland,³ southern willow scrub,³ mulefat scrub, disturbed non-native grassland, ornamental plant species (Peruvian peppertree, eucalyptus, European olive, and tree of heaven), two burrowing owls,¹ horned lark,¹ loggerhead shrike,¹ and other non-special status plant and animal species.
- First Industrial cannot confirm the presence or absence of any other special-status plant or animal species on its property at this time, as biological resource surveys have yet to be completed. Therefore, First Industrial reserves the right to comment further on biological resource issues when more specific information becomes available in the future.
- However, the EIR/EIS reported that eleven burrowing owls would be impacted by construction of the MCP Alternative 9 Rider Street Design Variation. EIR/EIS, at 3.20-3. The surveys conducted for burrowing owls supporting the EIR/EIS were completed in 2006. MCP, Natural Environment Study, at 217, 221. First Industrial has conducted more recent nesting season burrowing owl surveys in 2008 that determined only two burrowing owls are present at the site. We suggest that the more recent burrowing owl data collected is most representative of the characteristics at the First Industrial property and that the EIR/EIS statements regarding potential for MCP Alternative 9 impacts to burrowing owls should be adjusted accordingly. Please let us know if you wish to review additional detailed information regarding the 2008 burrowing owl surveys.

¹ Designated by the California Department of Fish and Game as a California special concern species, but is not federally- or state-listed.

² Designated as a special-status plant species by the California Native Plant Society but not protected under state or federal Endangered Species Acts.

³ Designated by the California Department of Fish and Game as a sensitive habitat.

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Water Resources

The Jurisdictional Delineation and Assessment Report (Delineation Report) supporting the EIR/EIS (Appx. L of the Natural Environment Study, referenced on page 3.18-1 of the EIR/EIS) appears to identify several areas on the First Industrial site that are alleged to be jurisdictional waters of the United States subject to Army Corps of Engineers (ACOE) regulation. Specifically, it would appear that areas within drainages marked as numbers 38, 39, and 40 in the Delineation Report contain waters marked as being within ACOE jurisdiction. We believe that these waters are not subject to regulation by the ACOE for the following reasons:

- Notwithstanding that the Delineation Report was updated in February 2008 and that the ACOE issued a letter in April 2008 purporting to verify the delineation, it appears that the delineation was not conducted in conformity with the regulatory guidance jointly issued by the ACOE and the U.S. Environmental Protection Agency in response to the Rapanos v. United States and Carabell v. United States cases.
- Also, the delineation conducted for the MCP was not performed using the ACOE's Arid West Supplement to the Delineation Manual (September 2008).
- Finally, the Delineation Report states that all drainages in Reach Three of the MCP (the First Industrial site is within Reach Three) connect to the Temescal Wash and this connectivity subjects all the drainages to ACOE jurisdiction. The First Industrial site drains away from the Temescal Wash, and thus there is no connectivity as alleged in the Delineation Report.

We believe that the First Industrial site contains Non-Relatively Permanent Waters, none of which exhibit wetland characteristics; and none of which support a significant biological, chemical, or physical nexus to a Traditionally Navigable Water pursuant to current ACOE delineation guidance and per the rulings in the Rapanos v. United States and Carabell v. United States cases. Thus, we assert that all of the areas on the First Industrial site considered subject to ACOE jurisdiction in the Delineation Report are isolated waters and would not be subject to ACOE jurisdiction. We request that the Delineation Report and the EIR/EIS be revised per these comments to remove from potential ACOE jurisdiction those areas that are on First Industrial's property.

Cultural/Paleontological Resources

First Industrial is in the process of coordination with the RCTC regarding cultural resource and paleontological resource surveys conducted on First Industrial's property. At this time, First Industrial is unable to comment on the accuracy of the cultural and paleontological resource information provided in the MCP EIR/EIS relative to its property and reserves the right to comment

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

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on these issues in the future once First Industrial has had the opportunity to examine, in detail, the reports relative to its property.

Sincerely,

A handwritten signature in black ink, appearing to read "Shanda M. Beltran", with a long horizontal flourish extending to the right.

Shanda M. Beltran

cc: Mr. Matt Englhard, First Industrial