

The Leader in Scientific Consulting and Research

SAN DIEGO CORPORATE OFFICE P.O. Box 488, Ramona, CA 92065 Phone: 760-787-0016

December 10, 2015

Mr. Darin Neufeld County of San Diego, DPLU 5530 Overland Ave, Third Floor San Diego, CA, 92123

RE: COMMENTS ON DPLU ENVIRONMENTAL DOCUMENTATION LAKE JENNINGS MARKETPLACE

Dear Mr. Neufeld:

Investigative Science & Engineering, Inc. (ISE), has reviewed the environmental documentation provided by the County of San Diego Planning & Development Services department with respect to the Lake Jennings Marketplace project (PDS2014-GPA-14-005, PDS2014-FRZ-14-004, PDS2014-TM-5590, PDS2014-STP-14-019, PDS2014-ER-14-14-013). Although we are not commenting directly on the project itself, and wish the client success in his endeavors, ISE is providing the following clarifying observations in the interest of disclosure and indemnification of our work products.

The County of San Diego seems to have a peculiar retrograde way of following the California Environmental Quality Act (CEQA). Whereas in California all projects are first technically analyzed for compliance with environmental laws, and then processed accordingly; the County appears to write the Environmental Impact Report findings in advance, and then attempts to coerce the technical report authors to justify the predetermined opinions. We should not have to remind the County that CEQA loses its meaning if it becomes a biased process, and that environmental consultants have to render independent opinions and not perform the function of a ghost writer for the County.

While ISE can overlook, and justifiably ignore, demands by the County of San Diego to incorporate non-scientific and/or non-technically-justifiable opinions or data in our reports, and even more disturbing, demands by our client to include County data in our reports that we believe is incorrect; we cannot overlook the County of San Diego providing false attribution of our work products and manipulation of our work after it is submitted.

AEROSPACE ENGINEERING * ACOUSTICS * VIBRATION * MATERIALS SCIENCE FORENSIC ENGINEERING * EXPERT WITNESS * AIR QUALITY & ENVIRONMENTAL COMPLIANCE

Response to Comment Letter J

Investigative Science and Engineering (Rick Tavares) December 10, 2015

- J-1 This comment is introductory and a summary of more detailed comments that occur later in the comment letter. As such, this comment is noted and detailed responses to the issues mentioned in this comment are provided below in responses to comments J-2 through J-5.
- J-2 The County does not concur with this comment. The County of San Diego has evaluated the proposed project on its own merits and in accordance with all applicable environmental laws and regulations. The County has prepared the Draft EIR pursuant to the applicable requirements under CEQA. This comment does not address the adequacy of the Draft EIR; therefore, no further response is required.
- J-3 This comment does not specifically identify the "non-scientific and/or non-technically-justifiable opinions or data." Also, the comment does not specifically identify the "false attribution of our work products and manipulation of our work after it was submitted."

In an effort to facilitate public review and make readily available to all members of the public the Lake Jennings Market Place EIR, the County provided this documentation on the County's website. This process requires the conversion of Word documents to a PDF format so that documents can be uploaded to the County's website. It also facilitates viewing by the public and prevents manipulation by the General Public.

J-2

J-3

There were no changes to the analysis, data or conclusions
of the ISE reports. The County acknowledges that while the
analysis, findings, and conclusions of the ISE reports
referenced in this comment were not altered or changed in
any manner, the process of converting the Word files
provided by ISE to the County into a PDF format resulted in
a formatting error. This formatting error has been corrected
as part of the Final EIR, as the Word documents provided
by ISE and referenced in this comment, are provided in the
Final EIR.

Mr. Darin Neufeld Comments on DPLU Environmental Documentation Lake Jennings Marketplace December 10, 2015 Page 2

So, with that being said, ISE would like to take this opportunity to point-out two items, which from a procedural standpoint, are grossly inconsistent with our understanding of the project being presented to the public.

- 1. At no time during the NOP process did the EIR preparer ever contact ISE for a technical comment, clarification, or explanation. The resource sections of the EIR for which ISE was providing the technical analyses was predominately written without input from our staff. On two separate occasions ISE had to discuss with the client that certain EIR findings were inconsistent with our analysis or understanding of the project description. Thus, any discussion and/or analyses presented in the EIR, which is attributed to ISE, and differs from the content presented in our final technical reports, was not provided by ISE. ISE provides no warranty on said work, nor do we endorse it.
- 2. The unsigned technical report PDF's provided on the County's website as Appendices H and J, are not the final work products generated by ISE. For some reason, the County decided not to include the signed finalized PDF's of the reports provided by ISE, and instead attempted to recreate a verisimilitude of our work products using the Microsoft Word file also send to the County for EIR text extraction purposes. This document has clearly been edited as one need only look at the first page to see the addition of text not present in our final PDF.

Although one could attribute this to carelessness on the County's part, this is not the case, as the perpetrator went though the additional effort to copy the document security features from the front page of the legitimate PDF so as to make the published PDF look as though it originated from ISE. Loading the files into Adobe Acrobat identifies document metadata showing that the County's PDF's for ISE's work was generated from a Microsoft Word file by someone named 'TPARSONS' on the afternoon of 11/2/15, long after the report was generated by ISE. This is a clear infringement on our copyright, a violation of the client's consulting agreement with ISE, and incredibly dishonest. ISE is exploring our legal options regarding this clear alteration of our technical work.

Sincerely.

Fich TAMES

Rick Tavares, Ph.D. President Investigative Science & Engineering, Inc.

- J-4 Comment noted. As previously stated, there were no changes to the analysis, data or conclusions of the ISE reports (Air Quality Conformity Assessment and Acoustical and Ground Vibration Site Assessment). The County considers the EIR's air quality and noise findings to be valid, and has confirmed that they are consistent with the various technical analyses prepared for the project.
- J-5 The technical reports provided by ISE and included as appendices by the County were reviewed and approved by the County as the CEQA Lead Agency for the project. The reports provided on the County's website reflect a conversion of the Word documents provided by ISE to a PDF format. The technical aspects of the ISE reports were not altered. Additionally, the commenter does not address the adequacy of the technical analysis. Therefore, no further response is required.
- **J-6** Comment noted.