

October 3, 2019

County of San Diego  
Planning and Development Services  
5510 Overland Avenue, Suite 310  
San Diego, California 92123  
Attention: Mr. David Sibbet

Subj: North County Environmental Resources, Site Plan 1-15 Review, S.O: PDS2008-3500-015, Log No. PDS2008-3910-0808012.

I am writing to express my deep concerns with the County of San Diego's intended decision to approve the Subject proposed project under the California Environmental Quality Act (CEQA) 15183 Exemption process. Under this process, there is no language that states the County has any requirement to accept and consider our comments. In fact, that is expressly what the County doesn't have to do. The statement in the Public Notice dated September 12<sup>th</sup>, that comments will be "taken into consideration" is not consistent with the exemption process, and has no statutory guidelines to define its claim. Therefore, there is no standard or measure by which to measure if this claim has been fulfilled. The initial hearing is example of this issue. Almost 20 speakers and approximately 70 attendees were told at the close of the meeting that written comments were more useful, as nothing was recorded of the hearing other than staff notes. Under an Environmental Impact Report (EIR) process, the verbal comments would have been recorded by either a court reporter or an electronic recording device and then transcribed. The only conclusion to be reached is that the statement "taken into consideration" is intended to mislead the public into believing we have been granted a role in the process. This is specifically and exactly what has been taken away from us.

Title 14, California Code of Regulations, Section 15201, states "Public Participation is an ESSENTIAL part of the CEQA process". Not only has the County excluded our meaningful involvement by taking away the formal EIR process previously underway, it has also selected a process that flies in the face of the purpose of CEQA and public review; "to share expertise, to check for accuracy, to detect omissions, and to discover public concerns". The decision to use the exemption process is specifically at cross purposes to Title 14. Additionally, in-house review of the technical studies alone is not an adequate basis by which to review their calculations, methodology and conclusions. If necessary, a FOIA request will be submitted to obtain copies of the in-house review comments and what, if any changes to the studies were made.

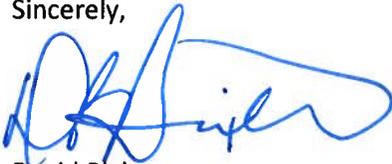
The County is claiming that the project is consistent with the 2011 General Plan Update (GPU) EIR. This is an 8-year-old document, and clearly many conditions have changed. In 2013, State legislation was proposed to limit the shelf life of an EIR to 7 years illustrating the common sense notion that these documents do not stay relevant for more than a few years. Relying on an 8-year old environmental document, to exempt a project that already pushes the very limits of significant impacts, is not appropriate for a project of this magnitude. One of the criteria to exempt a project under the 15183

process, is that there should be no new information which results in more severe impacts than anticipated by the GPU EIR. Again, the technical studies provided by the applicant must be reviewed and scrutinized by the public under a stand-alone EIR process, and not taken at face value. Initial review of these studies shows alarming and possibly understated impacts, despite their conclusions that none are possible. For example, there is discussion in the supplementary noise technical analysis that illustrates that under certain conditions, noise levels will be at the absolute limits of allowable A-weighted Sound Pressure Level (dBA) Equivalent sound level (Leq), and yet the document concludes that there is no possibility for exceeding those limits, “based on data provided by the applicant”. The data wasn’t specifically included in the report. The decision to downgrade the approval process and exclude meaningful review of these studies, is to the sole benefit of the applicant.

Under the terms of the permit, the proposed facility has the option to collect and process materials other than those studied in the reports and more CEQA would then be required. If the public has no rights to comment on the current proposal due to the 15183 Exemption process, we can only assume that we will have none in the future. The terms of the permit allow for changes that, if considered cumulatively along with the impacts from today’s proposed project, is an additional avenue that could easily push the impacts to greater levels than those analyzed in the GPU EIR, and therefore an exemption could not be given. From the beginning of the CEQA processes, the public has stated our concerns with the potential for incrementation, and we asked for analyses that included full use and build-out of the facility. This was not provided, although the County should have recognized their obligation to require this of the applicant. Under the County’s 15183 Exemption Process, projects being considered for this exemption must meet 5 specific criteria, including “there are no potentially significant off-site and/or cumulative impacts which the GPU EIR failed to evaluate”. That criteria cannot be determined by a simple, in-house review of the technical documents. Again, a stand-alone EIR process must be reinstated to allow for public review under Title 14, as discussed above.

With severe concerns over global warming and climate change, the County has decided to exempt a project that could likely have significant impacts to the environment. Global impacts are not required to be addressed in an EIR, however the County’s decision to exempt this project is not based on proper CEQA or stewardship. Please reinstate the formal EIR process and allow for public participation and involvement to help arrive at the best possible outcome for all considered.

Sincerely,



David Bixler

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