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BOARD OF SUPERVISORS
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2017 DEC 26 PM 4:02

December 23, 2017

Letter of Appeal Regarding the CEQA Exemption Determination for Saba Live Poultry Conditional Use Permit (2017-010819CUA)

Dear Supervisors,

Animal Legal Defense Fund (ALDF) hereby appeals the San Francisco Planning Department's determination that a conditional use permit for an animal confinement and slaughter facility in Bayview-Hunters Point is exempt from the California Environmental Quality Act (CEQA). As explained below and in the comments submitted to the Commission, this project and the Planning Commission's CEQA determination do not conform to the exemption requirements set forth in CEQA. ALDF therefore urges the Board of Supervisors to vacate the Planning Commission's CEQA exemption determination and require an initial study before permitting this project.

A 2100-square-foot, indoor facility that proposes to house 500 animals at a time and to sell or slaughter approximately 400 animals per day (146,000 animals per year)* in extremely close proximity to private residences and other businesses, and to transport live animals on trucks through the business corridor and residential neighborhoods of Bayview-Hunters Point, will have significant environmental effects. These effects are exacerbated by its proposed siting in an environmentally sensitive community that already suffers disproportionately from air pollution and associated health effects.

These effects and residents' concerns were clearly presented to the Commission—but went entirely unaddressed, for two reasons. First, the Commissioners apparently believed that they could not consider the environment while also fostering cultural inclusivity in San Francisco. Yet CEQA allows for agencies to take action—provided they first adequately consider and mitigate environmental effects. Second, the Commissioners reasoned that the project could be categorically exempt from CEQA so long as it is subject to building, permitting, or other codes down the line. Indeed, complying with such laws in this instance will likely require the facility to be properly ventilated, confirming that it will impact air quality in this neighborhood. But if the Commissioners' reasoning held true, no project would *ever* be subject to CEQA at its outset. This is simply not how CEQA works, and the Commission has failed to comply with it here.

* "They anticipate storing about 500 birds on-site on a typical day to support daily sales of about 200 to 400 birds Of course, there will be some peak times with more birds, but this is just the general day-to-day." Stmt. of Daniel Frattin, Caption Notes (Nov. 30, 2017), available at http://sanfrancisco.granicus.com/TranscriptViewer.php?view_id=20&clip_id=29290. Saba's Oakland facility is open seven days per week, indicating that the San Francisco facility will likely conduct slaughter every day of the year.

The Commission's Legal Duties Under CEQA

The Commission was required under CEQA to review the conditional use application¹ and determine whether the proposed *use* of the facility—not simply changes to its physical construction—qualified for a categorical exemption.² By law, the “key consideration” for the Commission was whether converting the existing space into an animal confinement and slaughter facility would involve “negligible or no expansion of an existing *use*”³ of 1526 Wallace Ave, which previously housed a towing service.

A categorical exclusion is never appropriate “for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment”⁴ In assessing whether this project should be exempt from CEQA, it was the Commission’s duty to determine whether there was substantial evidence that the project may have particular environmental impacts.⁵ In doing so, the Commission was required to consider the indirect effects of approving an animal confinement and slaughter facility in the most environmentally burdened neighborhood in San Francisco,⁶ with specific regard to any unusual circumstances that may exacerbate the facility’s effects—including the specific environmental, economic, and social impacts that will flow from the facility to the Bayview-Hunters Point community.⁷

The Commission was Presented With a “Fair Argument” That the Project Will Have Significant Environmental Effects

The CEQA process demands that environmental information be complete and relevant before an agency takes action, and that the decision maker is accountable for its environmental decisions.⁸ The central principle under CEQA is that it “be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.”⁹

“[T]o determine whether an agency proceeded in a manner required by law, [a reviewing court] will consider whether a ‘fair argument’ may be made that there is a reasonable possibility the proposed project will have a significant effect on the environment.”¹⁰ “If the agency was presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an [Environmental Impact Report], even though it may also be presented with other substantial evidence that the project will not have a significant effect.”¹¹ The “fair argument” standard is a low threshold.¹² In determining whether a fair argument exists, the courts owe no deference to the lead agency’s determination; review is *de novo*, with a preference for resolving doubts in favor of environmental review.¹³ “Substantial evidence” means “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”¹⁴ Relevant

personal observations by local residents as to the impact a facility will have on them can constitute substantial evidence.¹⁵

The Commission here was presented with more than a fair argument—it was presented, in advance, with thorough, detailed comments (a copy of which is attached hereto, and which are incorporated here in full by reference) and citations clearly outlining how allowing an indoor animal confinement and slaughter facility in San Francisco’s most environmentally burdened neighborhood, in close proximity to residents who already suffer a disproportionate impact from air pollution in the city, would have a significant effect on the environment. It was also presented with oral testimony from residents of Bayview-Hunters Point as to the negative effects this facility will have on them and their neighborhood, as well as from San Francisco residents who expressed what negative effects this facility will have on them personally and the animals warehoused there. The only relevant statement in the record to address these environmental concerns was made at the public hearing, that the facility plans to comply with applicable waste disposal regulations.[†] If it were true that any project could be exempt from CEQA as long as its builders and operators were subject to other laws down the line, truly *every* project ever permitted in San Francisco would qualify for a CEQA exemption. This is simply not how CEQA works.

The Commission’s faulty reasoning is evident in the CEQA Worksheet prepared for this project, which indicates that the project will not “have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks).” As explained in detail in ALDF’s comments before the Commission, and incorporated here by reference, an indoor animal confinement and slaughter facility that proposes to house 500 animal at a time and sell or slaughter 400 animals per day (146,000 animals per year)[‡] will generate substantial air emissions, including diesel emissions, as well as water emissions and solid waste. This is true regardless of the certification or labeling associated with the end products, and even if the facility is indoors, as explained more below.

Finally, the comments before the Commission made clear that siting this facility in Bayview-Hunters Point creates an unusual circumstance that makes a categorical exclusion particularly inappropriate. As described in detail in our comments, and incorporated here by reference, indoor confinement and live animal transport is detrimental to the health and welfare of the chickens transported to

[†] See Stmt. of Daniel Frattin, *supra* note * (explaining the industrial waste permitting regulations applicable to the facility and noting that “[i]t’s obviously not a 100% closed system”).

[‡] “They anticipate storing about 500 birds on-site on a typical day to support daily sales of about 200 to 400 birds Of course, there will be some peak times with more birds, but this is just the general day-to-day.” *Id.* Saba’s Oakland facility is open seven days per week, indicating that the San Francisco facility will likely conduct slaughter every day of the year.

and housed in this facility, which directly impacts public health. Public health, in turn, is of the utmost importance to the residents of Bayview-Hunters Point, who already suffer disproportionately from air pollution in San Francisco.

The Commission's CEQA exemption determination thus fails to comply with the Commission's legal obligation to consider and study the environmental impacts of this project.

The Commission is Required to Consider Environmental Effects Even if Other Codes Apply

Under CEQA, it is the lead agency's responsibility to determine whether its action will have significant environmental effects.¹⁶ An agency cannot simply ignore its responsibility to consider the environment because other agencies will regulate a facility once it begins operating.¹⁷

For example, the Commission apparently cast off concerns about air quality because the facility will be enclosed and will have to follow other laws. But in this case, following other laws means the building will have to be ventilated, which belies the notion that its air, odors, and emissions will be completely contained. All commercial buildings in which customers enter and employees work must be properly ventilated; this means air exhaust must be pumped out of the building.¹⁸ San Francisco's Building Code requires that buildings be ventilated with either natural (i.e. external openings) or mechanical means.¹⁹ As explained in ALDF's comments before the Commission, and incorporated here by reference, air exhaust from indoor confinement facilities has the potential to negatively impact nearby air quality via the transmission of odor, litter dust, pathogens, and particulate matter from the animal waste and bedding.

If this facility is not ventilated for some reason, it presents serious indoor air quality concerns to the animals and the workers. In fact, state inspection reports from Saba's Oakland facility have documented excessive moisture in need of correction at the facility.²⁰ The negative impacts of indoor air quality on workers and animals also require consideration under CEQA.

While these impacts could potentially be mitigated with proper planning, they still exist, and must be considered—a fact that the Commission glossed over pursuant to an incorrect understanding of California law. Several Commissioners mistakenly stated that because California regulatory agencies probably complied with CEQA when issuing new regulations, the Saba facility will necessarily comply with CEQA as long as it complies with those other agencies' regulations. This is simply incorrect. Again, other agencies' regulatory actions have no bearing on whether the project requires CEQA analysis at its outset by the Planning Commission.

Alternatively, the Commission Lacked Information Necessary to Make a CEQA Determination

Even construing the Commission’s decision in the most favorable light, the Commission lacked the necessary information to determine that the Saba facility will not have the effects described in ALDF’s comments. “In determining whether substantial evidence supports an agency’s exemption determination, [a reviewing court] will generally look only to the evidence in the administrative record at the time the agency made the exemption determination.”²¹ Where the record lacks information necessary for the agency to conclude that a project will not have significant effects, a court will overturn the agency’s determination.²² Such is the case here.

The argument before the Commissioners related solely to the environmental effects of the facility with regard to air quality, water quality, solid waste, animal health, and public health. Yet rather than utilize their statutory authority to request relevant information from the project sponsors on which they could base their CEQA determination—as ALDF repeatedly requested—the Commissioners relied on their own incorrect assumptions about halal foods to dismiss the legitimate environmental concerns presented to them.[§] Before voting to approve the facility, one Commissioner stated that the “halal method is different in the sense you’re not just dumping blood in sewers.”²³ In fact, halal requirements relate only to the method by which permissible animals are killed; they do not govern treatment of animals during their lifetimes, disposal of bodily remains, or the environmental effects of a halal slaughter facility.²⁴ Cultural inclusivity and environmental protection are not mutually exclusive, but because “community values’ do not . . . necessarily measure environmental impacts,”²⁵ CEQA requires the Commission to examine whether a project will significantly affect the environment—regardless of its ultimate position on the project.

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[§] All but one of the Commissioners noted the importance of supporting infrastructure to bring halal products to San Franciscans. In fact, the Bay Area already hosts California’s largest number of restaurants and markets serving halal products. See Zabihah, *The Original & World’s Largest Guide to Halal Restaurants & Markets, California*, available at <https://www.zabihah.com/reg/United-States/California/C3Jynwv1mE>. San Francisco, specifically, is already home to 104 restaurants and 21 markets throughout the city that serve halal meats, ranging from boutique halal markets and farm stores to Whole Foods and Safeway. See *id.*, San Francisco, available at <https://www.zabihah.com/sub/United-States/California/SF-Bay-Area/San-Francisco/OB9InUnes0>. Witnessing the slaughter process may serve a niche market, but it is based on consumer preference and does not have any bearing on the halal status of the final product. Letter from Kristen Stilt, J.D., Ph.D., Director of Islamic Legal Studies, Harvard Law School, to Cristina Stella (Dec. 21, 2017) (on file with author). Accessibility, in this case, is not a concern—and therefore not a viable excuse for failing to consider environmental impacts.

Conclusion

The transport of live animals on trucks through residential neighborhoods and a developing business corridor, indoor confinement of 500 animals in a 2100-square-foot facility in close proximity to residences, and the slaughter of approximately 140,000 animals per year will have significant environmental effects. The Commission is required to consider these effects even if it ultimately supports the facility, and even if other laws will apply to the facility in the future. ALDF presented a “fair argument” about the effects this facility will have, and the record is devoid of evidence to address the numerous impacts identified in ALDF’s comments. This renders the Commission’s CEQA determination legally deficient. If allowed to stand, the Commission’s decision to approve this project in light of the record before it would be a violation of CEQA and an abuse of discretion. ALDF therefore urges the Board of Supervisors to comply with CEQA and consider the environmental impacts of this facility before taking further action.

Respectfully Submitted,

Cristina Stella

Cristina Stella
Staff Attorney, Animal Legal Defense Fund

¹ Cal. Pub. Res. Code § 21080(a).

² Cal. Code Regs. tit. 14, § 15061(a).

³ *Id.* § 15301.

⁴ *Id.* § 15300.2.

⁵ *Id.* § 15060.

⁶ *Id.* § 15064(d).

⁷ *Id.* § 15064(e).

⁸ *Oro Fino Gold Mining Corp. v. Cty. of El Dorado*, 225 Cal. App. 3d 872, 885 (Cal. Ct. App. 1990).

⁹ *Pocket Protectors v. City Of Sacramento*, 124 Cal. App. 4th 903, 926 (Cal. Ct. App. 2004).

¹⁰ *Protect Telegraph Hill v. City & Cty. Of San Francisco*, 16 Cal. App. 5th 261 (Cal. Ct. App. 2017).

¹¹ *Id.*

¹² *Parker Shattuck Neighbors v. Berkeley City Council*, 222 Cal. App. 4th 768, 777 (Cal. Ct. App. 2013).

¹³ *Pocket Protectors*, 124 Cal. App. 4th at 928.

¹⁴ *Id.* at 927.

¹⁵ *Oro Fino Gold Mining Corp.*, 225 Cal. App. 3d at 882.

¹⁶ 14 C.C.R. § 15060.

¹⁷ *See Buffalo River Watershed Alliance v. USDA*, No. 4:13-cv-450-DPM, 2014 WL 6837005 (E.D. Ark. Dec. 2, 2014).

¹⁸ *See, e.g.*, Building Energy Codes Resource Ctr., Updated American National Standards Institute/American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard for Commercial Ventilation Rate Procedure – Code Notes, available at

https://www.energycodes.gov/sites/default/files/documents/cn_updated_ansi_ashrae_standard_for_commercial_ventilation_rate_procedure.pdf.

¹⁹ S.F. Bldg. Code § 1203 (2016).

²⁰ See Cal. Dept. Food & Agric., MPI Inspection Details (2014) (on file with author).

²¹ *Save Our Schools v. Barstow Unified School District Bd. Of Education*, 240 Cal. App. 4th 128 (Cal. Ct. App. 2015).

²² *Id.*

²³ See Stmt. of Comm'r Johnson, Caption Notes (Nov. 30, 2017), available at http://sanfrancisco.granicus.com/TranscriptViewer.php?view_id=20&clip_id=29290.

²⁴ Letter from Kristen Stilt, J.D., Ph.D., Director of Islamic Legal Studies, Harvard Law School, to Cristina Stella (Dec. 21, 2017) (on file with author).

²⁵ *East Sacramento Partnership for a Livable City v. City of Sacramento*, 5 Cal. App. 5th 281 (Cal. Ct. App. 2016).



SAN FRANCISCO PLANNING DEPARTMENT

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CEQA Categorical Exemption Determination

BJ

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
1526 Wallace		4829/004	
Case No.	Permit No.	Plans Dated	
2017010819CUA		8-9-17	
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval.			
Request for a Conditional Use Authorization to process and sell livestock (Livestock Processing I)			

STEP 1: EXEMPTION CLASS

TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an Environmental Evaluation Application is required.	
<input checked="" type="checkbox"/>	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions.; ; change of use under 10,000 sq. ft. if principally permitted or with a CU. Change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class ____

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an Environmental Evaluation Application is required.	
<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)? <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Article 38 program and the project would not have the potential to emit substantial pollutant concentrations. (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollutant Exposure Zone)</i>
<input type="checkbox"/>	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i>Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).</i>
<input type="checkbox"/>	Transportation: Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)
<input type="checkbox"/>	Slope = or > 20%: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required.
If no boxes are checked above, GO TO STEP 3. <u>If one or more boxes are checked above, an <i>Environmental Evaluation Application</i> is required, unless reviewed by an Environmental Planner.</u>	
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional):	

**STEP 3: PROPERTY STATUS – HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER**

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input checked="" type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input checked="" type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):

<input type="checkbox"/>	<p>9. Other work that would not materially impair a historic district (specify or add comments):</p> <p><i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i> _____</p>
<input type="checkbox"/>	<p>10. Reclassification of property status. <i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i></p> <p style="padding-left: 40px;"><input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C</p> <p>a. Per HRER dated: _____ <i>(attach HRER)</i></p> <p>b. Other <i>(specify)</i>:</p>
<p>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</p>	
<input type="checkbox"/>	<p>Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.</p>
<input type="checkbox"/>	<p>Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.</p>
<p>Comments (optional):</p>	
<p>Preservation Planner Signature:</p>	

STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	<p>Further environmental review required. Proposed project does not meet scopes of work in either <i>(check all that apply)</i>:</p> <p style="padding-left: 40px;"><input type="checkbox"/> Step 2 – CEQA Impacts</p> <p style="padding-left: 40px;"><input type="checkbox"/> Step 5 – Advanced Historical Review</p> <p>STOP! Must file an <i>Environmental Evaluation Application</i>.</p>	
<input type="checkbox"/>	<p>No further environmental review is required. The project is categorically exempt under CEQA.</p>	
	<p>Planner Name: Mathew Chandler</p> <hr/> <p>Project Approval Action:</p> <p>Planning Commission Hearing</p> <p><small>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</small></p>	<p>Signature:</p> <p>Mathew Chandler Digitally signed by Mathew Chandler Date: 2017.11.29 12:58:07 -08'00'</p>
<p>Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.</p>		

**STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT
TO BE COMPLETED BY PROJECT PLANNER**

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
Case No.	Previous Building Permit No.	New Building Permit No.
Plans Dated	Previous Approval Action	New Approval Action
Modified Project Description:		

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required. ATEX FORM	

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.	
Planner Name:	Signature or Stamp:



Winning the case against cruelty.

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aldf.org

November 21, 2017

RE: Saba Live Poultry Conditional Use Permit Application (2017-010819CUA)

Dear San Francisco Planning Department,

Animal Legal Defense Fund (ALDF) hereby submits these comments to the San Francisco Planning Department (Department) for consideration in regard to the conditional use permit application currently pending for 1526 Wallace Avenue.

ALDF is a California-based national nonprofit organization whose mission is to protect the lives and advance the interests of animals through the legal system. ALDF has more than 250,000 members and supporters nationwide, including nearly 2000 in San Francisco County. ALDF achieves its mission in part by encouraging stricter enforcement of laws that protect and require consideration of animals, including the California Environmental Quality Act (CEQA).

As it stands, the Department lacks an adequate legal basis for approving the conditional use of 1526 Wallace Avenue as a livestock processing facility. The conversion of this building into a livestock sale and processing facility has significant environmental effects that demand analysis and mitigation under CEQA, rendering a categorical exemption inappropriate. Moreover, approving the transport, housing, slaughter, and processing at this location will detract from future economic development of Bayview-Hunters Point, and will unduly burden a community that already suffers from disproportionate environmental impacts. This facility should not be approved—but at the very least, its effects should be identified, analyzed, and mitigated.

Background: Saba Live Poultry

Saba Live Poultry is a New York-based company with 10 outlets nationwide.¹ Saba specializes in the sale and slaughter of live animals: chicken, ducks, quail, roosters, guinea hens, other types of fowl, rabbits, lamb, veal calves, goats, and sheep.² Animals at its facilities are individually selected by customers and can be slaughtered and prepared according to their specifications.³

Saba has an existing Bay Area location at 849 Kennedy Street in Oakland. Saba initially applied for a conditional use permit from the City of Oakland in 2012 to slaughter 20,000 birds per year (up to 100 per day) at this facility. In 2015 Saba sought to increase the number of birds slaughtered at this location each year from 20,000 to 50,000 (up to 150 per day), and to diversify its operation by slaughtering 2500 sheep and goats per year (25-50 per week).⁴ Saba's application to the S.F. Planning Department does not specify what types or how many animals it plans to process at its Bayview facility; the application merely states the proposed use is "livestock processing." To ALDF's knowledge, the Department has not made any further inquiry into the scale or nature of the proposed operation.

Saba's birds are raised in Lancaster, Pennsylvania and transported, live, nationwide.⁵ Birds are trucked in to the Oakland facility alive each day.⁶ They are housed in cages, three or four to a cage, for up to five days, before individual birds are purchased by customers and slaughtered to their specifications.⁷ Birds housed longer than 48 hours are offered to customers either at a reduced price or for free with the sale of fresh live birds.⁸ Goats and sheep are separately trucked in multiple times each week and housed on site for roughly two to three days.⁹ None of this information is included on Saba's permit application, and to ALDF's knowledge, the Department has not made any further inquiry into the scale or nature of the proposed operation.

When a customer purchases an animal at the Saba facility, it is slaughtered in accordance with Halal standards—standards that govern the specific manner in which an animal is slaughtered, but not necessarily how an animal is raised or handled before arriving at the Saba facility. Under Halal standards, an animal's throat is cut by a sharp knife that severs the carotid artery, jugular vein, and windpipe in a single swipe. Animals are not stunned or rendered unconscious before being killed, as they would be in a non-Halal slaughterhouse. Once the blood drains from the carcass, the feathers are plucked out, the skin is removed, and all internal organs are cleaned out and disposed of¹⁰; how exactly the animal's feathers, skin, and organs are removed at Saba's facilities is unclear, as is the method of disposal for the animal's feathers, skin, head, feet, organs, innards, and blood. The meat is then cut to the customer's specifications, packaged into several bags, and delivered to the customer on site.¹¹ Again, none of this information is included on Saba's permit application, and to ALDF's knowledge, the Department has not inquired about any of these facts.

The Saba Facility is Not Compatible with Long-Term Economic Development in Bayview-Hunters Point

To be clear, the Saba facility is not a quaint butcher shop that will bring a bit of the Bayview's history back to the area,[†] nor is it akin to the many food-based small businesses that are currently thriving there today. As explained below, a facility that houses and slaughters tens of thousands of animals each year in extremely close proximity to other businesses, customers, and residents presents concerns that are distinct from and far more significant than those implicated by a traditional butcher shop or deli, which would simply cut or prepare raw meat products to customer specifications.

ALDF recognizes the importance of the successful economic development of the Bayview in accordance with the desires of local residents. For this very reason, prior to submitting these comments, ALDF has engaged with Greenaction for Health and Environmental Justice, the Bayview-Hunters Point Environmental Justice Task Force, and Bayview-Hunters Point Community Advocates, as well as individual business owners and members of Economic Development on Third (EDOT) and the Merchants of Butchertown—several of whom support ALDF's comments or are submitting comments separately to raise their concerns about this facility. Still, the nature and reality of animal slaughter and processing result in serious and significant environmental, social, and economic effects that the Department must thoroughly assess under CEQA *before* allowing this type of industry to be established in a sensitive and overly-burdened community. The designation of Bayview-Hunters Point as an industrial zone should not and does not provide the Department with *carte blanche* to site facilities that will further reduce the quality of life of its residents.

The Department Must Comply with CEQA

Upon receipt of an application for a conditional use permit,¹² CEQA requires the Planning Department to review the application and determine whether the proposed use qualifies for a categorical exemption.¹³ A project is exempt from CEQA *only if* the exemption is not barred by an exception to the exemption.¹⁴ The Department has the authority to request additional information from the applicant to inform its CEQA analysis.¹⁵

[†] In fact, such a shop exists just 400 feet from the proposed Saba facility, which further demonstrates that the facility is not necessary to serve a need within the community. Just around the corner of Wallace Ave & Jennings Street is a family-owned business that has operated in the Bayview since 1917, which provides fresh eggs as well as fresh and frozen poultry, small game, and seafood, some of which are certified organic. Thus, the expansion of this chain is not necessary to bring the service it provides to the Bayview, nor to the Bay Area.

An exemption to CEQA applies to the permitting of existing private facilities involving negligible or no expansion of use beyond that existing at the time the Planning Department makes its CEQA determination.¹⁶ This is not a categorical, statutory exemption to CEQA, but a regulatory guideline; it can only be applied in the absence of certain factors.¹⁷ In assessing whether this exception applies, it is the Department's duty to determine whether there is substantial evidence that the project may have the particular environmental impacts described in the exception.¹⁸ "The key consideration is whether the project involves negligible or no expansion of an existing *use*" of a facility.¹⁹ That is, the Department must consider how the facility will be used, not simply the extent to which its physical structure will be altered. Moreover, CEQA requires the Department to consider the indirect effects of its actions,²⁰ including economic and social impacts that flow from the physical use of a facility.²¹

To determine whether an exemption can properly apply to a new project, the Department completes a CEQA Categorical Exemption Determination (CEQA Worksheet). This Worksheet contains several questions that purport to assess the potential impacts of a proposed action. Among these questions are whether the project has "the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)," or "the potential to adversely affect transit" In any event, a categorical exclusion is never appropriate "for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."²²

The fact that other agencies will regulate the after-effects of an approved action does not absolve the Department of its duty to assess the environmental effects of a proposed action in the first instance.²³

"[I]f a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an [Environmental Impact Report] even though it may also be presented with other substantial evidence that the project will not have a significant effect." After preparing an Environmental Impact Report, the Department may only issue a "negative determination" if there is no substantial evidence, in light of whole record, that the project may have a significant effect.²⁴

The Saba Facility Will Have Significant Environmental Effects

Environmental issues associated with poultry and livestock processing include air emissions, wastewater and water emissions, solid waste management, socioeconomic and environmental justice, and animal health and welfare. The Department can and must consider all of these issues prior to granting a conditional use permit.

1. Air emissions

The CEQA Worksheet prepared for this facility indicates that it will not emit substantial pollutant concentrations from diesel trucks, nor adversely affect transit. This is incorrect. CEQA requires the Department to consider not just emissions and effects from the facility itself, but from the project as a whole—including the trucks and transport that are essential to its operation. If operations at Saba's Oakland facility are any indication, trucks will travel both to and from the Bayview facility each day to deliver birds, to and from the facility several times per week to deliver larger animals, and an unknown amount of times at unknown intervals to carry waste from the facility. Each of these trips is essential to Saba's operation, and also a direct contributor to air emissions and climate change. In fact, the federal Farm Service Agency recognizes that trucks are a primary source of greenhouse gases produced by the poultry industry.²⁵

As of 2009, diesel particulate matter emission from trucks and buses made up 23 percent of all air emissions within Bayview-Hunters Point.²⁶ Over half of these emissions result from activity on the freeways that cut through the neighborhood and disproportionately burden the community with air quality impacts.²⁷ However, diesel trucks also account for over 1.6 million vehicle miles traveled through arterial streets and over 120,000 vehicle miles traveled on local roads in Bayview-Hunters Point, not including idling time.²⁸ Traffic densities in the western portion of the neighborhood exceed the traffic densities of more than 85 percent of the remaining tracts in San Francisco, and this is only expected to increase through 2040.²⁹ Increasing truck traffic on arterial and local streets will continue to decrease local air quality and public health, further burdening this community.

In addition to the diesel emissions caused by these trucks, trucks carrying animals to the facility have the potential to spread pathogens and other matter from the animals, themselves. The nature of live animal transport requires open-sided trucks or ventilatory openings.³⁰ The Food and Agriculture Organization (FAO) of the United Nations describes live animal transport as “ideally suited for spreading disease,” given that animals are “confined together for long periods in a poorly

ventilated stressful environment.”³¹ The immunosuppressive stress of prolonged transport may not only increase a healthy animal’s susceptibility to infection, but it may trigger the emergence of a variety of diarrheal and respiratory diseases caused by endogenous microorganisms that might not normally lead to disease.³² Because no federal laws regulate the long-distance transport of chickens, specifically, it is even more difficult to ensure that flocks do not present disease risk to the communities of residents through which they are transported.³³

Air emissions from animal confinement, slaughter, and processing that will take place at the facility also present significant environmental concerns. Animal holding areas, processing operations, sanitizing operations, wastewater systems, and heat sources are recognized by the U.S. Environmental Protection Agency as sources of volatile organic compounds, hazardous air pollutants, and other criteria pollutants. In addition to volatile organic compounds, confinement facilities can emit other air pollutants of concern, such as hydrogen sulfide, ammonia, and toxins less than 10 microns in diameter (“PM₁₀”), including endotoxins, bacteria, yeasts, and molds.³⁴ They also cause odors from animal housing and waste management, and dust from feed storage, loading and unloading, and waste management activities.³⁵ Long-distance live animal transport also may increase the fecal shedding of disease agents: studies have shown that long-distance transport increases the prevalence of Salmonella within animal feces, and the number of contaminated animals.³⁶ Long-distance live animal transport may also facilitate the spread of animal pathogens with the potential to cause human disease, such as Avian influenza.³⁷

Facilities that confine animals emit air pollutants through the management and disposal of animal manure, the movement of animals and their bedding, and the animals themselves. Ammonia gas and other sources of odor are generated primarily during denitrification of manure and can be released directly into the atmosphere at any stage of the manure handling process, including through ventilation of buildings and manure storage areas.³⁸ Ammonia gas levels also may be affected by the ambient temperature, ventilation rate, humidity, stocking rate, litter quality, and feed composition (crude protein). Ammonia gas (NH₃) has a sharp and pungent odor and can act as an irritant when present in elevated concentrations. When deposited into surface waters it may contribute to eutrophication, which depletes water of oxygen and harms aquatic and other water-dependent species.

Airborne dust is another factor. In poultry production and processing operations, dust results from the handling and storage of feed ingredients that may include biological agents (pathogens, bacteria, fungi, mites, and viruses) and particles from grain, mites, fungi, and bacteria, as well as inorganic material such as limestone.³⁹

Other sources of dust include bird manure and associated bioaerosols.⁴⁰ Dust can cause respiratory problems and facilitate transport of odors and diseases. Some dusts may contain antigens that can cause severe irritation to the respiratory tract.⁴¹ Acute toxic alveolitis, otherwise known as organic dust toxic syndrome, can accompany even brief, occasional exposures to heavy concentrations of organic dust and moldy feed materials in agricultural environments.⁴² Inadequately ventilated buildings can exacerbate these concerns for workers in the facility, while improper ventilation systems can disperse the risks to nearby businesses and their customers, as well as local residents.

Children, the elderly, and other sensitive populations are particularly susceptible to air emissions, including particulate matter and suspended dust that are linked to asthma and bronchitis. Smaller particles can actually be absorbed by the body and can have systemic effects, including cardiac arrest. Long-term exposure can lead to decreased lung function.⁴³ Ammonia emissions are rapidly absorbed by the upper airways in the body, causing severe coughing and mucous build-up—and if severe enough, scarring of the airways. Particulate matter may lead to more severe health consequences for workers who are exposed by their occupation.⁴⁴

This is especially relevant in Bayview-Hunters Point. Compared to San Francisco as a whole, all of Bayview-Hunters Point is in the top 25 percent of tracts with highest “PM2.5”⁴⁵ concentrations; however, the average concentration in Bayview-Hunters Point is about 2 percent higher than the average for all of San Francisco. In 2010, 4.4 percent of Bayview-Hunters Point population lived in an area with a PM2.5 concentration at or above 10 µg/m³, compared to 1.2 percent of citywide populations living in such an area.⁴⁶ Likewise, 5.5 percent of Bayview-Hunters Point residents live in an area with total cancer risk greater than 100 cases per 1 million people, compared to 3.3 percent of residents citywide—a disproportionately greater percentage than the surrounding community.⁴⁷

Degraded air quality can negatively affect the mental health and quality of life of nearby residents. Odors can cause lifestyle changes for individuals in the surrounding communities and can alter many daily activities. If odors are severe, people may choose to keep their windows closed, even in high temperatures when there is no air conditioning; parents may choose to not let their children play outside nearby. Odors can cause negative mood states, such as tension, depression, or anger, and possibly neuropsychiatric abnormalities, such as impaired balance or memory.⁴⁸

These effects warrant consideration with regard to the Saba facility, especially, because nuisance odors, traffic density, and asthma hospitalization rates are already environmental justice indicators for Bayview-Hunters Point—meaning this

neighborhood already suffers from these adverse environmental circumstances disproportionately compared to San Francisco as a whole or other San Francisco neighborhoods.⁴⁹ The effect of nuisance odors is already familiar to residents of Bayview-Hunters Point: since publication of the Southeast Plant Odor Control Master Plan in 1998, the San Francisco Public Utility Commission has recognized that nuisance odors are an issue due to the siting of the treatment plant that processes 80 percent of San Francisco's wastewater.⁵⁰ Plus, the Saba facility will be located less than a half-mile from Drew and Carver Elementary Schools (.4), a half-mile from the Burnett Child Development Center, and under a mile from both Hart Elementary and the Malcolm X Academy (.7). As the members of this community who are most sensitive to airborne emissions, the health of students at these schools must be protected.

To ALDF's knowledge, the Department lacks *any* information about the Saba facility's effects with regard to air emissions, which the Department can and must consider prior to granting a conditional use permit.

2. Wastewater and water emissions

Wastewater is one of the biggest concerns associated with slaughterhouses nationwide. Poultry operations, specifically, may generate effluents from various sources, including poultry housing, feeding, and watering, as well as from waste storage and management. The siting of the Southeast Plant mentioned above indicates that the Bayview-Hunters Point community already bears a disproportionate burden from the indirect impacts of wastewater.⁵¹

Effluents from poultry operations typically have a high content of organic material—and consequently a high biochemical oxygen demand and chemical oxygen demand—as well as nutrients and suspended solids such as fat, grease, and manure.⁵² The greenhouse gases methane and carbon dioxide are created both in the process of slaughter and by the degradation of wastewater. Wastewater contains a number of organic materials, all of which release methane and carbon dioxide when they decompose. It may also contain residual amounts of growth enhancers and antibiotics, hazardous materials such as disinfecting agents, and pesticides and rodenticides that may be used to control pests within the facility.⁵³

Wastewater from slaughterhouses is also one of the largest sources of nitrate pollution in drinking water nationwide.⁵⁴ High nitrate levels can cause blue baby syndrome, a fatal condition that impacts babies under six months of age. Nitrogen pollution in waterways can also kill aquatic life, and make it much more difficult for fish, insects, and other water-dependent species to survive.

To ALDF's knowledge, the Department lacks *any* information about the Saba facility's effects with regard to water emissions, which the Department can and must consider prior to granting a conditional use permit.

3. Solid waste management and disposal

Solid waste generated during poultry production includes waste feed, animal waste, carcasses, wastewater, contaminated ventilation filters, and used cleaning materials.

With regard to feed, common poultry feed primarily consists of corn and soy, although other grains, materials, and substances of animal origin (e.g. fish meal, meat and bone meal, and milk products) may also be added.⁵⁵ Feed is typically supplemented with amino acids, enzymes, vitamins, mineral supplements, and may contain hormones, antibiotics, and heavy metals.⁵⁶ Feed can become unusable waste material if spilled during storage, loading, and unloading or during animal feeding.⁵⁷

With regard to animal waste, poultry production operations can generate significant quantities. Animal waste management requires collection, transport, storage, treatment, and either use or disposal. Manure is generally stored on-site at poultry processing facilities until it can be transported elsewhere. Poultry manure contains nitrogen, phosphorus, and potentially hormones, antibiotics, and heavy metals that are part of the animals' feed.⁵⁸ In fact, the U.S. Department of Agriculture has found that poultry manure generally contains two to four times more nutrients than is contained in the manure of other livestock.⁵⁹ These substances may result in air emissions of ammonia and other gases and may pose a potential risk of contamination to surface or groundwater resources if not properly stored, treated, and disposed of. Manure also contains bacteria and pathogens that may potentially affect soil, water, and food resources.⁶⁰ Animal carcasses are also a significant source of disease and odors, and can attract disease vectors.⁶¹

To ALDF's knowledge, the Department lacks *any* information about the Saba facility's effects with regard to solid waste, which the Department can and must consider prior to granting a conditional use permit.

4. Socioeconomic and Environmental Justice impacts

CEQA requires the Department to analyze the effects of the Saba facility on the particular community in which it will operate; even if the facility could generally be permitted, it may not be appropriate for the Bayview, specifically. To guide an environmental justice analysis, “indicators” are used to determine what adverse socioeconomic, environmental, health, community, and other circumstances residents of Bayview-Hunters Point experience disproportionately compared to San Francisco as a whole or to other neighborhoods in San Francisco. The U.S. Environmental Protection Agency defines environmental justice indicators as data that “provide information that can be used in an environmental justice assessment to supplement, as appropriate, information more specific to the environmental decision being evaluated (e.g., impacts from a facility being sited or permitted, or potential impacts from a proposed rule) and data required by the statutes and regulations that apply to the particular situation.”⁶²

In June 2017, the San Francisco Public Utility Commission (SFPUC) published an Environmental Justice Analysis for Bayview-Hunters Point as part of its Biosolids Digester Facilities Project. This analysis builds upon previous or concurrent studies that are also relevant to the Department’s environmental justice analysis of the Saba facility.⁶³ The recent SFPUC analysis shows that nuisance odors, traffic density, population of children, resiliency to climate change, and asthma hospitalization rates are considered environmental justice indicators for Bayview-Hunters Point—meaning this neighborhood already suffers from these adverse environmental circumstances disproportionately compared to San Francisco as a whole or other San Francisco neighborhoods.⁶⁴ These indicators are particularly relevant to the permitting of the Saba facility in light of its potential environmental effects explained above.

Over half of San Francisco’s industrial zoning is located in Bayview-Hunters Point.⁶⁵ Ninety-one to 100 percent of residents in the immediate neighborhood around the proposed 1526 Wallace Ave are considered “minority” or non-White.⁶⁶ In the neighborhood as a whole, 19 percent of families and 21 percent of individuals live below the federal poverty thresholds.⁶⁷ This community’s designation as an industrial zone should not and does not provide the Department with *carte blanche* to site facilities that will further reduce the quality of life of its residents.

To ALDF’s knowledge, the Department lacks *any* information about the Saba facility’s effects with regard to environmental justice, which the Department can and must consider prior to granting a conditional use permit.

5. Animal Health and Welfare

Confining large numbers of animals indoors results in direct and detrimental impacts to the animals, which should be considered under CEQA.

The cross-country journey from Pennsylvania undoubtedly causes physical and psychological trauma to the animals before they even arrive at the Saba facility. No federal law protects live chickens, specifically, during transport, nor guarantees them access to food, water, and shelter. The nature of live animal transport requires open-sided trucks or ventilatory openings; crates are often improperly covered, and birds can be exposed to high winds and cold temperatures. The unfeathered parts of their bodies become red and swollen, and sometimes even gangrened. During the trip, many chickens can die from hypothermia or heart failure associated with stress.⁶⁸

Once at the Saba facility, birds are housed in cages indoors. Indoor cage confinement causes hens more psychological stress, which is generally thought to render birds more susceptible to infectious disease.⁶⁹ Stress hormones can also increase bacteria colonization and systemic spread in chickens,⁷⁰ and stress-related corticosteroids can impair the immune system.⁷¹

The birds' environment also leads to social issues that affect their health. Feather pecking occurs when one bird pecks or pulls at the feathers of another; it can damage plumage and injure a bird's skin, and sometimes lead to cannibalism. Cannibalism refers to the pecking, tearing, and consuming of skin, tissue, or organs of flock mates. Pecking and cannibalism are easier to prevent than to stop once they start; because birds are attracted to blood and have a tendency to imitate each other, they mimic the aggressive pecking or cannibalistic behavior they see in other members of the flock. Overcrowding, overheating, inadequate nutrition, excessive lighting, incorrect flock sizes, flocks of different ages and colors, and abrupt changes in management and environment can all precipitate feather pecking and cannibalism among flocks in facilities of any size.⁷²

Chickens, ducks, and turkeys are more sensitive to lights than humans—because chickens have greater sensitivity to multiple regions of visible light, they perceive light as brighter and more intense than humans.⁷³ As such, the number of hours of light provided to a flock and the intensity of the light can influence cannibalistic behavior; extremely bright lights or excessively long periods of light will cause birds to become hostile toward each other. High-energy and low-fiber diets, feed lacking in protein and other nutrients, and diets with inadequate salt content can also lead to pecking behavior. Underweight birds are particularly prone to be victims of this behavior.

Caged facilities are particularly problematic because they prevent chickens from engaging in natural behaviors that keep them mentally and physically healthy. A chicken's natural behavior includes spending a considerable portion of the day searching for food. Accordingly, when a bird's environment is not suitable for the expression of normal foraging behavior, pecking can be redirected toward flock mates and lead to cannibalism. Combining birds of different ages, breeds, colors, or sizes that have not been reared together often upsets the social order of a flock and increases the chances of cannibalism. Birds caged without access to a perch cannot escape it if it occurs within their cage. Because indoor, confined conditions exacerbate many of the social and environmental factors that contribute to pecking and cannibalism, they are particularly harmful.

Animal disease-causing agents can also spread rapidly among confined flocks. Animal diseases can enter a facility with new animals, on equipment, and on people. Some diseases can weaken or kill large numbers of animals at an infected facility. Both poultry manure and carcasses contain pathogenic organisms which can infect humans, for example viruses such as Avian Influenza (strain HN51), and parasites such as parasitical worms. In some cases, the only remedy available to an operation is to euthanize an entire group of animals to prevent the spread of the disease.

Good ventilation, air movement, proper temperature, dry conditions, freedom to express natural behaviors, and sunlight are also essential for other animals who may be housed at the Saba facility. ALDF is deeply concerned about the conditions in which these animals will be kept. However, due to Saba and the Department's lack of notice about the specific types of animals who will be housed and slaughtered at the Saba facility, ALDF is unable to provide meaningful comments about the health and welfare of these additional species.⁷⁴

To ALDF's knowledge, the Department lacks *any* information about the Saba facility's practices or effects with regard to animal health and welfare, which the Department can and must consider prior to granting a conditional use permit.

Conclusion

Animal confinement facilities, slaughterhouses, and processing plants of any scale may have significant environmental effects. The Department simply does not possess enough information about the proposed Saba Live Poultry facility and its effects to make the requisite determination that a categorical exemption under CEQA is appropriate. The Department's approval of this facility without proper analysis of the effects documented herein would violate CEQA.

The detrimental impact that live animal confinement, slaughter, and processing will have on the Bayview-Hunters Point community, environment, and animals counsel toward denying this facility a conditional use permit. At the very least, the Department must conduct a proper CEQA analysis before making a decision on the application. ALDF therefore urges the Department to deny the conditional use permit for this facility unless and until its effects on animals, the environment, and the local community are studied and mitigated.

Respectfully Submitted,

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¹ See Saba Fresh Meat, “About Our History Here at Saba Halal,” <http://www.sabahalal.com/about-us.html> (last visited Nov. 20, 2017).

² *Id.*

³ *Id.*

⁴ Oakland City Planning Comm’n, Case File No. DET15-026-A01, Staff Report (July 1, 2015), available at <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak053781.pdf> (hereinafter “Oakland Staff Report”).

⁵ Saba Fresh Meat, *supra* note 1.

⁶ Oakland Staff Report, *supra* note 4.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Cal. Pub. Res. Code § 21080(a).

¹³ Cal. Code Regs. tit. 14, § 15061(a).

¹⁴ *Id.* § 15061(b)(2).

¹⁵ *Id.* § 15060.5.

¹⁶ *Id.* § 15301.

¹⁷ See *Save Our Schs. v. Barstow Unified Sch. Dist.*, 240 Cal. App. 4th 128, 140-41 (Cal. Ct. App. 2015).

¹⁸ *Id.* at 139.

¹⁹ Cal. Code Regs. tit. 14, § 15301.

²⁰ *Id.* § 15064(d).

²¹ *Id.* § 15064(e).

²² *Id.* § 15300.2.

²³ See *Buffalo River Watershed Alliance v. USDA*, No. 4:13-cv-450-DPM, 2014 WL 6837005 (E.D. Ark. Dec. 2, 2014).

²⁴ Cal. Code Regs. tit. 14, § 15070.

²⁵ United States Dept. of Agric. Farm Serv. Agency, Draft Environmental Assessment (Oct. 2017), at 3-10, available at https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/State-Offices/Arkansas/env-docs/draft_ea_tracypoultry_20171025.pdf; see generally Humane Soc’y of the United States (HSUS), Green Gas Emissions from Animal Agriculture, available at <http://www.humanesociety.org/assets/pdfs/farm/hsus-fact-sheet-greenhouse-gas-emissions-from-animal-agriculture.pdf>.

²⁶ San Francisco Dept. of the Env’t, Bayview Hunters Point Community Diesel Pollution Reduction Project at 10 (Feb. 2009), available at https://sfenvironment.org/sites/default/files/fliers/files/sfe_ej_bvhp_diesel_pollution_reduction_project_report.pdf (hereinafter “Diesel Pollution Report”).

²⁷ *Id.* at 12, 17.

²⁸ *Id.* at 14.

²⁹ San Francisco Pub. Utils. Comm’n, Env’tl. Justice Analysis for Bayview-Hunters Point at 4-30 (June 2017), available at <http://sfwater.org/modules/showdocument.aspx?documentid=10879> (hereinafter “SFPUC Analysis”).

³⁰ M. Greger, *The Long Haul: Risks Associated With Livestock Transport, Biosecurity and Bioterrorism: Biodefense Strategy, Practice, and Science* at 305 (2007), available at <http://www.humanesociety.org/assets/pdfs/farm/b-b2007-5-4.pdf>.

³¹ *Id.* at 301.

³² *Id.*

³³ *Id.* at 304.

³⁴ Declaration of Professor Steven B. Wing, Ph.D., (Sept. 3, 2015), available at <http://buffaloriveralliance.org/Resources/Documents/Ex.%205%20-%20Wing%20declaration%20FINAL%20w%20Exhibits%20-%20reduced%20size.pdf>.

³⁵ Int'l Finance Corp., Environmental, Health, and Safety Guidelines for Poultry Production at 6 (Apr. 30, 2007), available at <http://www.ifc.org/wps/wcm/connect/26baaf004886581fb43ef66a6515bb18/final+-+poultry+production.pdf?mod=ajperes> (hereinafter "IFC Guidelines").

³⁶ Greger, *supra* note 30, at 301.

³⁷ *Id.* at 302.

³⁸ IFC Guidelines, *supra* note 35, at 6.

³⁹ *Id.* at 11.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ Carrie Hribar, Nat'l Ass'n of Loc. Boards of Health, *Understanding Concentrated Animal Feeding Operations and Their Impact on Communities* at 6 (Mark Schultz, ed., 2010), available at http://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf.

⁴⁴ *Id.*

⁴⁵ PM_{2.5}, also called "fine particulates," consists of particles with diameters that are less than or equal to 2.5 microns in size. PM_{2.5} is a more serious health concern than PM₁₀, since smaller particles can travel more deeply into our lungs and cause more harmful effects. SFPUC Analysis, *supra* note 29, at 4-24.

⁴⁶ *Id.*

⁴⁷ *Id.* at 4-28, 4-29.

⁴⁸ Wing Decl., *supra* note 34, at ¶ 15.

⁴⁹ SFPUC Analysis, *supra* note 29, at 4-2.

⁵⁰ *Id.* at 4-29.

⁵¹ SFPUC Analysis, *supra* note 29, at 4-29.

⁵² IFC Guidelines, *supra* note 35, at 5.

⁵³ *See id.* at 5, 6-7.

⁵⁴ *See* Env'tl. Working Group, Meat Processors/Slaughterhouses (2011), <https://www.ewg.org/meateatersguide/interactive-graphic/meat-processorsslaughterhouses>.

⁵⁵ IFC Guidelines, *supra* note 35, at 2.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 3.

⁵⁹ The PEW Env't. Group, *Big Chicken: Pollution and Industrial Poultry Production in America* at 13 (July 27, 2011), available at <http://www.pewtrusts.org/~media/legacy/uploadedfiles/peg/publications/report/pegbigchickenjuly2011pdf.pdf>.

⁶⁰ IFC Guidelines, *supra* note 35, at 3.

⁶¹ *Id.* at 4.

⁶² SFPUC Analysis, *supra* note 29, at 1-8.

⁶³ *See id.* at 4-10 – 4-22.

⁶⁴ *Id.* at 4-2.

⁶⁵ *Id.* at 4-39.

⁶⁶ *Id.* at 4-6.

⁶⁷ *Id.* at 4-7.

⁶⁸ *See generally* Greger, *supra* note 30.

⁶⁹ *See* T. Humphrey, *Are Happy Chickens Safer Chickens? Poultry Welfare and Disease Susceptibility*, 47 *British Poultry Sci.* 379, 379-91 (2006); A.M. de Passillé & J. Rushen, *Food Safety and Environmental Issues in Animal Welfare*, 24 *Revue Scientifique et Technique de l'Office International des Epizooties* 757, 757-66 (2005).

⁷⁰ U. Methner et al., *Effect of Norepinephrine on Colonisation and Systemic Spread of Salmonella Enterica in Infected Animals: Role of Catechol Siderophore Precursors and Degradation Products*, 298 *Int'l J. of Med. Microbiology* 429, 429-39 (2008).

⁷¹ M.T. Bailey et al., *In Vivo Adaptation of Attenuated Salmonella Typhimurium Results in Increased Growth Upon Exposure to Norepinephrine*, 67 *Physiology & Behavior* 359, 359-64 (1999); S. Shini et al., *Biological Response of Chickens (Gallus gallus domesticus) Induced by Corticosterone and a Bacterial Endotoxin*, 149 *Comparative Biochemistry & Physiology Part B* 324, 324-33 (2008).

⁷² Jacquie Jacob, *Feather Pecking and Cannibalism in Small and Backyard Poultry Flocks*, eXtension.org, <http://articles.extension.org/pages/66088/feather-pecking-and-cannibalism-in-small-and-backyard-poultry-flocks> (last visited Nov. 20, 2017).

⁷³ Bob Alphin, Dept. of Animal and Food Sciences, Univ. of Delaware, *Impact of Light on Poultry*, available at http://extension.umd.edu/sites/extension.umd.edu/files/_images/programs/poultry/Alphin%20Light%20Impact%20on%20Poultry%203-11-14.pdf.

⁷⁴ See generally HSUS, *The Welfare of Animals in the Veal Industry* (July 2012), available at <http://www.humanesociety.org/assets/pdfs/farm/hsus-the-welfare-of-animals-in-the-veal-industry-b.pdf> (discussing animal welfare issues associated with veal calves); HSUS, *The Welfare of Animals in the Duck Industry*, available at <http://www.humanesociety.org/assets/pdfs/farm/hsus-the-welfare-of-animals-in-the-duck-industry.pdf> (ducks); HSUS, *The Welfare of Animals in the Turkey Industry*, available at <http://www.humanesociety.org/assets/pdfs/farm/HSUS-Report-on-Turkey-Welfare.pdf> (turkeys); HSUS, *The Welfare of Animals in the Chicken Industry* (Dec. 2013), available at http://www.humanesociety.org/assets/pdfs/farm/welfare_broiler.pdf (broiler chickens).

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