

File No. 180841

Committee Item No. \_\_\_\_\_

Board Item No. 43

## COMMITTEE/BOARD OF SUPERVISORS

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Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: September 25, 2018

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- Clerical Documents

Prepared by: Lisa Lew

Date: September 20, 2018

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Clerk of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

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BOARD OF SUPERVISORS  
2018 AUG 23 PM 3:40  
BY                      *dw*

August 21, 2018

Dear Supervisors,

Pursuant to section 31.16 of the City and County of San Francisco Administrative Code I am submitting this letter to appeal the Planning Commission's approval of the of the EIR for the Project known as Indian Basin Mixed Use Project. Attached please find the Planning Commissions two motions on this matter as well as supporting documents.

My name is Mikhail Brodsky. I am holding a PhD in Geophysics and ScD in Applied Math (my research experience is important for understanding of some specific issues of the project) degrees. I am representing Archimedes Banya SF (The Banya) and 748 Innes Ave. HOA. I hereby confirm that I testified in person two times in front of the Planning Commission and submitted written comments and information to the Planning Commission about this matter during the comment period.

I am appealing the certification of the final EIR (FEIR) for this project because the EIR does not complies with CEQA. It is not adequate, accurate and objective. It is not sufficient as an informational document. It is incorrect in its conclusions, and it does not reflect the independent judgment and analysis of the City. Lastly the Planning Commission certification findings are incorrect.

**The FEIR does not comply with CEQA requirements.**

At the time of the EIR approval by the Planning Commission, the final development plan had not been approved and is subject to change so there is no way to know for sure if the project presented and the project approved will have the same level of substantial environmental impact. Furthermore, project changes between the DEIR and the FEIR are substantial and require recirculation and notification of the EIR before approval as required by CEQA.

The revised proposed project at the time the EIR was approved would add 335 residential units to the 1,240 residential units analyzed in the DEIR, increasing the total number of proposed residential units to 1,575 units. The increase in residential square footage would replace 66,224 gross square feet of commercial use, as well as the 50,000-gsf proposed school.

Removing over 66,000 square feet of commercial space, adding almost 30% more residents plus removing space for a school are individually or collectively changes that substantially change the environmental impact of this project, especially considering that this project required a statement of overriding consideration – which is a balancing of the cost and benefits of a project. Losing a school, losing 66,000 square feet of commercial space and adding 335 unit into this project clearly impact the cost and benefits of the project and the public deserves an opportunity to hear about the changes and have an opportunity to speak out about the changes. This exact matter was brought up during the Planning Commission meeting in July when one of the speakers asked the Planning Commission to table the vote the on the EIR until the meeting when the project was going to be approved, so that everyone would have time to

understand the exact impacts of the project and the overriding considerations. The July meeting was the first time that we became aware that the project plan had changed and that the project itself would not be discussed at that meeting. It also became clear at the meeting that there were additional changes to be made to the project before it was ready to be presented to the Planning Commission.

In other words, we never had any opportunity to discuss the impact of significantly less commercial space, losing a dedicated school and squeezing in additional residential units. This is exactly the reason why Public Resources Code Section 21092.1 or CEQA Guidelines Section 15088.5 requires this updated version of the DEIR to be recirculated with the new project plans and have a new public comment period before the Planning Commission approved it.

### **The EIR is not adequate, accurate and objective**

The presented FEIR was heavily criticized by many people during hearings on October 19, 2017. For multiple reasons and specifically because the EIR did not make any mention of Archimedes Banya, a vital cultural resource which will be heavily impacted by this project. At the October meeting the Planning Commission acknowledged by their comments that the EIR was inadequate and inaccurate because it lacked any consideration of the impact on this project on the Banya and its community. The Planning Commission also commented that something would be done to include the Banya in the EIR before it was approved. Unfortunately, that did not happen, and on July 26, 2018 the EIR that was approved did not include the impact of this project on the Banya.

We, at Archimedes Banya SF (the Banya), are committed to improving the quality of life for all that live in the nearby community and residents and visitors of the whole SF Bay Area. The Banya is a Russian/German/Scandinavian style bathhouse, the only one of its kind in the Bay Area. It is not only a place for people to experience Russian/German/Scandinavian cultures, it has quickly become a cultural institution and tourist destination in San Francisco. The Banya is a place where people of all ages, genders, ethnic and cultural backgrounds convene to relax, socialize, and improve their health. It uniquely attracts visitors to Hunters Point, a destination in San Francisco that was previously avoided by visitors and locals alike. Thus, the Banya has contributed to the vibrancy of the neighborhood that has been unprecedented by any other business. The Banya is the only descendant of the famous Sutro Bath it has a similar cultural value and represent specific features of San Francisco. Currently the Banya serves about 60,000 visits per year, all these people enjoy the features provided by its location. This is clearly an important cultural institution that will be impacted by the projects and must be including in any EIR involving nearby development. The Banya also employs about 90 people, many of them from local Bayview and Mission district communities.

The Indian Basin project will have a substantial, negative impact on the Banya that must be included in the EIR and considered in any statement of overriding consideration. The roof deck provides a safe and private space for customers to relax, socialize, and sunbathe, often in full nudity. The patrons currently enjoy a safe and private space, shielded from the eyes of the public and anyone not in the Banya. The Project, which proposes buildings of up to 160 feet surrounds the rooftop deck with buildings. The approved FEIR totally ignores the Banya existence and interests of its visitors. Rather than being shielded from public eyes, people can view Banya visitors from any level above the roof deck, presenting both a privacy and safety

concern for visitors. Onlookers can not only see Banya visitors in their most vulnerable states, but can also ascertain their identities. Some visitors go to the Banya solely for the roof deck, as it is currently the only place in San Francisco for visitors to enjoy private and quiet Bay scenery.

The Project would introduce significant amount of noise to the Banya, thus interfering with the Banya's currently tranquil state. It would also introduce wind to the area and adversely affect the air quality of the area, thus negatively impacting the health benefits that the Banya can now provide to visitors, including fresh air. Thus, the Project would substantially interfere with a significant portion of the Banya's business.

Although we were promised acknowledgement and inclusion into the EIR at the October 19, 2017 Planning Commission, that did not happen. Since the Banya was not considered in the EIR we were not included to any consideration related to mitigations and were not considered in the statement of overriding consideration.

For example, Impact AE-2 provides that "The proposed project or variant would not degrade the existing visual character or quality of the site and its surroundings" is "less than significant." As a mitigation measure the EIR suggests the following, "As an improvement measure to further reduce impacts of project construction activities on the visual character/quality of the site, construction documents should require all construction contractors to provide for the cleanliness of construction equipment stored or driven outside of the limits of the construction work area. Construction equipment, including equipment used for staging, should be parked on the project site. Staging areas should be screened from view at street level with solid wood fencing or a green fence for areas under construction for extended periods of time. Before the issuance of building permits, the project sponsors (through the construction contractor[s]) should submit a construction staging, access, and parking plan to the San Francisco Department of Building Inspection for review and approval. Construction worker vehicles should not be parked at on-street parking spaces." However, this mitigation measure does not take the Banya's interest into account whatsoever. The mitigation measure only screens staging areas from the street level, meaning that the construction site would be in full view of Banya visitors making the impact to the Banya significant.

Impact-C-AE-1 provides, "The proposed project or variant, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would substantially contribute to cumulative impacts related to aesthetics" and points to Mitigation Measure M-AE-3, which only provides for a lighting plan as mitigation. However, a mere lighting plan does not mitigate the aesthetic impacts to Banya visitors. Lighting does protect patron's privacy on the roof deck nor does it mitigate the aesthetic impacts to Banya visitors.

Further, the Banya is not considered in the assessment for the impact on recreation. The EIR provides that "[t]he proposed project or variant would not physically degrade existing recreational facilities" and "in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would not substantially contribute to cumulative impacts related to recreation." (Impact RE-3 and Impact-C-RE-1). The Banya and 748 Innes Ave. HOA respectfully disagree with this assessment as the Project does substantially degrade the Banya in that it eliminates the ability for patrons and tenants to fully enjoy the complete facilities. In addition, those patrons who visit solely because of the roof deck will be disincentivized from doing so.

San Francisco Russian community is seriously concerned of losing an important and unique cultural element representing these 70,000+ city residents. We respectfully request that the Banyas and tenants of 748 Innes Ave. interests be fully considered. Specifically, we want to be rightfully included in the DEIR and have the right to petition for mitigation.

#### **The EIR is not sufficient as an informational document**

The main part of the subject property originally was zoned M-1, Light Industrial, for many reasons, that should be respected. Almost all area of proposed construction is a low density landfill made from soil and construction residuals from Hunters Point/Potrero Hill constructions, ([http://www.foundsf.org/index.php?title=India Basin and the Southeast Bays hore](http://www.foundsf.org/index.php?title=India_Basin_and_the_Southeast_Bays_hore)) during 1960-70s. The soil is contaminated with petroleum hydrocarbon and heavy metals lead and chromium (both 10 times of the threshold level, see attached soils report). That study was performed just on the edge of the landfill and the contamination is expected to be much worse closer to the Bay. The facts were provided to the Planning Committee but ignored in the EIR and the committee conclusion. The landfill is very unstable for heavy construction and the water level is just 2 feet below surface. There are no utilities on the lot. The main sewer line (already overloaded) is 18 foot above the property on Innes Ave., so to service more than 1500 residential units a sewer treatment plant and powerful pumps are required on the property to properly pump it up. It was not sufficiently discussed in the EIR. Also the sewer pipes cannot be secured on the landfill and become a real danger in case of even a small earthquake.

The approved EIR is ignoring the impact of lead and chromium diffusion from soil through water pipes to the quality of water that will be used by future residents of the projected houses. Diffusion is the net movement of molecules or atoms from a region of high concentration (or high chemical potential) to a region of low concentration (or low chemical potential) as a result of random motion of the molecules or atoms. Diffusion is driven by a gradient in chemical potential of the diffusing species. The diffusion in metals is especially aggressive see <https://pubs.acs.org/doi/abs/10.1021/ie50616a039?journalCode=iechad> and lead is know to be deadly dangerous for people see <https://www.mayoclinic.org/diseases-conditions/lead-poisoning/symptoms-causes/syc-20354717>. Similar effect resulted in contamination by lead in drinking water of Hunters Point consumed by members of SFPD (see publication: **“Navy failed to alert San Francisco to tainted shipyard water, documents show”** in SF Chronicle, August 3, 2018 and **“SFPD calls for retesting of water, soil, air at Hunters Point Shipyard crime lab”** in SF Examiner August 21, 2018).

More, the presents of lead and chromium in the salt water saturating the fill below its surface creates enormous danger to the metal rods needed for up to 50 foot long concrete piles that have to be main structure to support the 7 story buildings. The concrete is porous and allows the salt-water contact the rods. This will create an electric pair intensifying the rods corrosion (see: <https://www.nace.org/Corrosion-Central/Corrosion-101/Galvanic-Corrosion/> and <https://www.fastenal.com/content/feds/pdf/Article%20-%20Corrosion.pdf>).

Similar rod corrosion has been already observed in the new Bay Bridge. The EIR does not address this issue in anyway. This is another example of the incompleteness of the FEIR.

Furthermore, there is rising concern within the Hunter Point community of radioactive contamination from the Naval Yard adjacent to the Indian Basin lots. There is national concern

regarding the ineffective testing that the Navy undertook to determine the actual radioactive contamination in the area. There has been testimony that some of the landfill of the lot in question may have originated from the Naval yard – not just the freeway construction. Furthermore, there is testimony that the Navy used radioactive materials on the hill directly across the street from the lot in question. Considering the questions and confusion of the contamination in the immediate area of the lots in question the EIR should include a more inclusive analysis of the area to be considered a sufficient informational document.

### **The EIR is incorrect in its conclusions**

The following is a citation from a document prepared by Chad White, PhD, Environmental Planner, and member of Morgan Heights Homeowners Association, and provided to the Planning Committee in writing and spoken during the hearing on July 26, 2018 (attached).

“The following statements summarize problems for this project, as seen through the lens of existing residents, particularly long-time homeowners in the area:

- **An overly dense overdevelopment.** The density and clustering of buildings exceeds everything in the area. The plan would easily double the density used in the brand new Shipyard and would triple, quadruple, or quintuple the residential density prior to that. There is no reasonable justification for this increase. Nowhere else in the City has there been a rapid densification of what has been a relatively quiet, residential area. We would prefer to see Build Inc development a business model that enhances the look and feel of a shoreline community than supplant it with an urban neighborhood out of nowhere. Quite simply, this project is building too many units in too small of an area. It needs to be scaled back to something more like half its current size.

- **Building heights incompatible with the rest of the neighborhood.** Even the brand new Shipyard tops out four-story buildings. The other buildings in the area are one-, two-, and three-story projects. Yet half of the buildings in the Build Inc. proposal would be five, six, or seven stories that would soar up in a cluster and loom over everything else. Again, this makes very little sense. While building on this parcel makes sense, this level of density does not. It also appears inconsistent with Prop B in spirit, if not law.

- **Two inappropriately tall and unnecessary mid-rise towers.** The new plans from Build Inc. include two 14-story residential towers. Nowhere outside of the high-rises in SoMa are we seeing this intensity of development. It is not only inconsistent with the rest of the area; it will create a bizarre eye sore. These will not be architectural marvels. They will just be two large pillars of concrete sticking up out of nowhere and visually distracting from the shoreline and the basin. The area imagines a perched beach. Stick with that. This should not be planned as if it is South Beach.

- **Insufficient aesthetic consultation with the neighborhood.** Build Inc. has held over a hundred public meetings on this project. Why do these meetings not include a 3D rendering of the side that includes the existing housing on Hunters Ridge? The obvious answer is that it would demonstrate precisely what we are pointing out: it would drop an overly tall high-density neighborhood into what is otherwise a shoreline community that enjoys the relationship to the Bay that it will disrupt.

· **Insufficient thought about economic adjacencies.** The current plan does not protect against an economic marginalization in the neighborhood. The project needs features that assure that the development will bring commercial access to all members of the area, not just people who can afford to buy into new condos.

· **Respect for an ecologically sensitive area.** The wetlands that line the shoreline are home to a large number of nesting animals, which are part of the attraction. Overdevelopment will bring too many flight path obstructions, and too much density will undermine the vitality and environmental function of the shoreline's many communities."

**The EIR does not reflect the independent judgment and analysis of the City**

During the October 19, 2017 Planning Commission meeting, the Commission acknowledged by their comments that in their judgment EIR at that time was inadequate and inaccurate because it lacked any consideration of the impact on this project on the Banya and its community. The Planning Commission commented that some analysis would be done to include the Banya in the EIR before it was approved. Since the FEIR did not include the Banya it cannot be considered to reflect the independent judgment and analysis of the city.

**The Planning Commission certification findings are incorrect.**

All above allows concluding that the Planning Commission recommendation to approve the EIR was done without enough consideration, information, and discussion with residents and businesses of the area, so should be reversed.



Mikhail Brodsky, President  
Archimedes Banya SF and 748 Innes Ave. HOA

510 - 208 - 2803 office  
president@LWCOLNUCA.EDU

**Attachments**

Environmental Report from 1999

Comments on Build Inc. to the Planning Commission.pdf

Planning Commission Orders:

[https://drive.google.com/file/d/0Bz2f9gtan0heQV9raGszVGRIUmlOd21TbjVFMXUxeTJCvGRF/vi  
ew?usp=sharing](https://drive.google.com/file/d/0Bz2f9gtan0heQV9raGszVGRIUmlOd21TbjVFMXUxeTJCvGRF/vi<br/>ew?usp=sharing)

[https://drive.google.com/file/d/0Bz2f9gtan0heaGxKaGk1X2g5VHF4SHRtdlo3WxNMS2FjLXFn/vi  
ew?usp=sharing](https://drive.google.com/file/d/0Bz2f9gtan0heaGxKaGk1X2g5VHF4SHRtdlo3WxNMS2FjLXFn/vi<br/>ew?usp=sharing)



# SAN FRANCISCO PLANNING DEPARTMENT

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AUG 23 2018

2018 AUG 23 PM 3:40

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

## Planning Commission Motion No. 20247

HEARING DATE: July 26, 2018

*Case No.:* 2014-002541ENV

*Project Address:* India Basin Mixed-Use Project (700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park)

*Zoning:* M-1 (Light Industrial), M-2 (Heavy Industrial), NC-2 (Small-Scale Neighborhood Commercial), and P (Public) Districts  
40-X and OS (Open Space) Height and Bulk Districts

*Block/Lot:* Various Lots on Blocks 4596, 4597, 4605, 4606, 4607, 4620, 4621, 4622, 4629A, 4630, 4631, 4644, 4645, and 4646

*Project Sponsor:* Courtney Pash, BUILD  
(415) 551-7626 or [courtney@bldsf.com](mailto:courtney@bldsf.com)  
Nicole Avril, San Francisco Recreation and Park Department  
(415) 305-8438 or [nicole.avril@sfgov.org](mailto:nicole.avril@sfgov.org)

*Staff Contact:* Michael Li, San Francisco Planning Department  
(415) 575-9107 or [michael.j.li@sfgov.org](mailto:michael.j.li@sfgov.org)

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ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED PROJECT AT 700 INNES AVENUE, 900 INNES AVENUE, INDIA BASIN OPEN SPACE, AND INDIA BASIN SHORELINE PARK, THE AREA GENERALLY BOUNDED BY INNES AVENUE ON THE WEST, HUNTERS POINT BLVD. ON THE NORTH, THE SAN FRANCISCO BAY ON THE EAST AND THE EARL STREET RIGHT-OF-WAY ON THE SOUTH (LARGELY EXCLUDING PARCELS WITH STRUCTURES) TOTALING ABOUT 38.24 ACRES. THE BUILD PORTION OF THE INDIA BASIN MIXED-USE PROJECT WOULD INCLUDE THE DEVELOPMENT OF ABOUT 29.26 UNDEVELOPED ACRES (PARCELS AND DESIGNATED RIGHTS-OF-WAY) THAT WOULD RESULT IN APPROXIMATELY 1,575 RESIDENTIAL UNITS, 209,000 GSF OF NONRESIDENTIAL USE, UP TO 1,800 PARKING SPACES, 1,575 BICYCLE PARKING SPACES, 15.5 ACRES OF NEW AND IMPROVED PUBLICLY ACCESSIBLE OPEN SPACE, NEW STREETS AND OTHER PUBLIC REALM IMPROVEMENTS. THE RECREATION AND PARKS DEPARTMENT COMPONENT OF THE PROJECT CONSISTS OF MAKING IMPROVEMENTS TO THE 900 INNES, INDIA BASIN OPEN SPACE, AND INDIA BASIN SHORELINE PARK PROPERTIES. THESE IMPROVEMENTS WOULD INCLUDE ENHANCING EXISTING AND DEVELOPING NEW OPEN SPACE AND RECREATION FACILITIES TOTALING ABOUT 8.98 ACRES. THE SUBJECT SITES ARE CURRENTLY WITHIN THE M-1 (LIGHT INDUSTRIAL), M-2 (HEAVY INDUSTRIAL), NC-2 (SMALL-SCALE NEIGHBORHOOD COMMERCIAL), AND P (PUBLIC) USE DISTRICTS AND 40-X AND OS (OPEN SPACE) HEIGHT AND BULK DISTRICTS.



MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report (hereinafter "FEIR") identified as Case No. 2014-002541ENV, the "India Basin Mixed-Use Project" at 700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park (hereinafter "the Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "the Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
  - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on June 1, 2016.
  - B. The Department published the Draft EIR (hereinafter "DEIR") on September 13, 2017, and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice and to property owners and occupants within a 300-foot radius of the site on September 13, 2017.
  - C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the project sponsor on September 13, 2017.
  - D. Copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse, on September 13, 2017.
  - E. A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on September 13, 2017.
2. The Commission held a duly advertised public hearing on said DEIR on October 19, 2017, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on October 30, 2017.
3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in Responses to Comments (hereinafter "RTC") document published on July 11, 2018, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
4. An FEIR has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the RTC document, all as required by law.

5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
6. On July 26, 2018, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
7. The project sponsor has indicated that the presently preferred alternative is the Revised Project analyzed in the DEIR and the RTC document.
8. The Planning Commission hereby does find that the FEIR concerning File No. 2014-002541ENV reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the RTC document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.
9. The Commission, in certifying the completion of said FEIR, hereby does find that the Project described in the EIR:
  - A. Will have significant unavoidable project-level environmental effects on cultural resources, noise, air quality, and wind; and
  - B. Will have significant cumulative environmental effects on cultural resources, transportation and circulation, noise, and air quality.
10. The Planning Commission reviewed and considered the information contained in the FEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of July 26, 2018.



Jonas P. Ionin  
Commission Secretary

AYES: Melgar, Fong, Johnson, Koppel, Richards  
NOES: None  
ABSENT: Hillis, Moore  
ADOPTED: July 26, 2018



**SAN FRANCISCO  
PLANNING DEPARTMENT**

**Planning Commission Motion No. 20248  
CEQA Findings  
HEARING DATE: July 26, 2018**

*Case No.:* 2014-002541ENV  
*Project Address:* India Basin Mixed Use Project  
*Existing Zoning:* M-1 (Light Industrial)  
M-2 (Heavy Industrial)  
NC-2 (Small Scale Neighborhood Commercial)  
P (Public)  
40-X and OS (Open Space) Height and Bulk Districts  
*Block/Lot:* Various Lots on Blocks 4596, 4597, 4605, 4606, 4607, 4620, 4621,  
4622, 4629A, 4630, 4631, 4644, 4645, and 4646  
*Project Sponsor:* Recreation and Park Department and BUILD Inc.  
*Staff Contact:* Mathew Snyder – (415) 575-6891  
Mathew.Snyder@sfgov.org

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2018 AUG 23 PM 3:39

*JS*

**ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”), AND THE CEQA GUIDELINES INCLUDING FINDINGS OF FACT, FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, THE ADOPTION OF A MITIGATION, MONITORING AND REPORTING PROGRAM AND THE ADOPTION OF A STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH APPROVALS FOR THE INDIA BASIN MIXED-USE PROJECT, AT 700 INNES AVENUE, 900 INNES AVENUE, INDIA BASIN OPEN SPACE, AND INDIA BASIN SHORELINE PARK, THE AREA GENERALLY BOUNDED BY INNES AVENUE ON THE WEST, HUNTERS POINT BLVD. ON THE NORTH, THE SAN FRANCISCO BAY ON THE EAST AND THE EARL STREET RIGHT-OF-WAY ON THE SOUTH, TOTALING ABOUT 38.24 ACRES.**

**PREAMBLE**

The India Basin Mixed-Use Project (“Project”) comprises a project site of approximately 38.24-acres along the India Basin shoreline of San Francisco Bay (“Bay”). The combined Project site encompasses publicly and privately owned dry land parcels, including existing unaccepted rights-of-way (“ROW”) (including some ROW owned by the Port of San Francisco [“SF Port”]), (collectively, the “Project Site”). The Project consists of a public private partnership between the Recreation and Park Department (“RPD”) and BUILD, who are project sponsors for the Project

[www.sfplanning.org](http://www.sfplanning.org)

(“Project Sponsors”). The Project is a mixed-use development containing an integrated network of new public parks, wetland habitat, and a mixed-use urban village. As envisioned, the Project would include a significant amount of public open space, shoreline improvements, market-rate and affordable residential uses, commercial use, parking, environmental cleanup and infrastructure development and street improvements.

The RPD would redevelop approximately 8.98 acres of publicly owned parcels along the shoreline to create a new publicly accessible network of improved parkland and open space. The RPD development area comprises the existing 5.6-acre India Basin Shoreline Park, the 1.8-acre 900 Innes/Historic Boatyard site (“900 Innes”), and 1.58 acres of unimproved ROW. This new shoreline park network would provide space for active and passive recreation, picnicking, and water access; extend the Blue Greenway (a portion of the San Francisco Bay Trail [“Bay Trail”]); rehabilitate and celebrate the historic India Basin Scow Schooner Boatyard; and provide pedestrian and bicycle connections to and along the shoreline, fronting the Bay. The RPD development represents approximately 23.5 percent of the project area (RPD developed properties are collectively referred to as the “RPD Properties”).

BUILD would redevelop approximately 29.26 acres of privately and publicly owned parcels along the shoreline to create a new publicly accessible network of improved parkland and open space and a mixed-use urban village consisting 1,575 residential units, 209,000 of commercial use, 1,800 off-street parking spaces, and 1,575 bicycle parking spaces. The BUILD development area comprises 17.12 acres of privately owned parcels (collectively, “700 Innes”), the existing 6.2-acre of RPD property located along the shoreline (the “India Basin Open Space”), and 5.94 acres of partially unimproved and unaccepted ROW. Approximately 14 acres of the BUILD development area would be developed in a series of phases into privately owned buildings as part of a mixed-use urban village. The remainder of the BUILD development, approximately 15.26 acres, would be developed in a series of phases into a mix of improved ROW, significant new public parkland and open space, new public plazas, new private gardens and open space, and restored and enhanced wetland habitat (BUILD developed properties are collectively referred to as the “BUILD Properties”).

Two options for the BUILD mixed-use urban village are analyzed in the Draft Environmental Impact Report (hereinafter, the “DEIR”): a residentially-focused version with approximately 1,240 dwelling units, 275,330 square feet of commercial space, 50,000 square feet of institutional space, and 1,800 parking spaces, referred to in the EIR as the “proposed project,” and a more commercially intensive variant with approximately 500 dwelling units, 1,000,000 square feet of commercial space, 50,000 square feet of institutional space, and 1,932 parking spaces, referred to in the EIR as the “variant.” In both versions (the proposed project and the variant), the urban village would contain a mix of residential, retail, commercial, office, research and development (“R&D”), institutional, flex space, and recreational and art uses. As part of the BUILD development, BUILD would also redesign the existing India Basin Open Space into enhanced wetlands, a boardwalk, a beach and beach deck, and a kayak launch among other features. The BUILD development represents approximately 76.5 percent of the Project area. The RPD component of the Project would remain the same under both the proposed project and the project variant. The Project in its entirety is more particularly described in Attachment A (See Below).

The Project Site is currently zoned Public (P), Small-Scale Neighborhood Commercial (NC-2), Light Industrial (M-1), and Heavy Industrial (M-2). Portions of the project-related RPD and ROW properties are currently zoned M-1, NC-2, M-2, and P, and are within the 40-X and OS height and bulk districts. Those properties located within the future public park network would be rezoned to P; some portions of existing unaccepted ROW would be incorporated into the future mixed-use urban village and would require rezoning into the India Basin Special Use District ("SUD") with specific height, bulk, and use designations appropriate for the proposed development, through amendments to the *San Francisco General Plan* ("General Plan"), San Francisco Planning Code ("Planning Code") text, and the San Francisco Zoning Map ("Zoning Map"). The BUILD Properties would require rezoning into the India Basin SUD with specific height, bulk, and use designations appropriate for the proposed development, through amendments to the General Plan, Planning Code text, and Zoning Map, and incorporation of design standards and guidelines in a proposed India Basin Design Standards and Guidelines document.

The Project Sponsors filed an Environmental Evaluation Application for the Project with the San Francisco Planning Department ("Department") on December 12, 2014.

Pursuant to and in accordance with the requirements of Section 21094 of CEQA and Sections 15063 and 15082 of the CEQA Guidelines, the Department, as lead agency, published and circulated a Notice of Preparation ("NOP") on June 1, 2016, which notice solicited comments regarding the scope of the EIR for the proposed project. The NOP and its 30-day public review comment period were advertised in a newspaper of general circulation in San Francisco and mailed to governmental agencies, organizations and persons interested in the potential impacts of the proposed project. The Department held a public scoping meeting on June 19, 2016, starting at 5 p.m. at the Alex L. Pitcher, Jr. Community Room, 1800 Oakdale Avenue in San Francisco.

During the 30-day public scoping period that ended on July 1, 2016, the Department accepted comments from agencies and interested parties that identified environmental issues that should be addressed in the EIR. Comments received during the scoping process were considered in the preparation of the DEIR.

The Department prepared the DEIR, which describes the proposed project and variant and the environmental setting, analyzes potential impacts, identifies mitigation measures for impacts found to be significant or potentially significant, and evaluates alternatives to the proposed project and variant. The DEIR assesses the potential construction and operational impacts of the proposed project and variant on the environment, and the potential cumulative impacts associated with the proposed project and variant in combination with other past, present, and future actions with potential for impacts on the same resources. The analysis of potential environmental impacts in the DEIR utilizes significance criteria that are based on the San Francisco Planning Department Environmental Planning Division guidance regarding the environmental effects to be considered significant. The Environmental Planning Division's guidance is, in turn, based on CEQA Guidelines Appendix G, with some modifications.

The Department published a DEIR for the project on September 13, 2017, and circulated the DEIR to local, state, and federal agencies and to interested organizations and individuals for public review. On September 13, 2017, the Department also distributed notices of availability of the DEIR; published notification of its availability in a newspaper of general circulation in San Francisco; posted the notice of availability at the San Francisco County Clerk's office; and posted notices at locations within the Project area. The Planning Commission ("Commission") held a public hearing on October 19, 2017, to solicit testimony on the DEIR during the public review period. A court reporter, present at the public hearing, transcribed the oral comments verbatim, and prepared written transcripts. The Department also received written comments on the DEIR, which were sent through mail, fax, hand delivery, or email. The Department accepted public comment on the DEIR until October 30, 2017.

The San Francisco Planning Department then prepared the Comments and Responses to Comments on DEIR document ("RTC"). The RTC document was published on July 11, 2018, and includes copies of all of the comments received on the DEIR and written responses to each comment.

During the period between publication of the DEIR and the RTC document, the Project Sponsors initiated revisions to the proposed project that increase the number of residential units and reduce the commercial square footage within the 700 Innes property. The revised proposed project would add 335 residential units to the 1,240 residential units analyzed in the DEIR, increasing the total number of proposed residential units to 1,575 units. The increase in residential square footage would replace 66,224 gross square feet (gsf) of commercial use, as well as the 50,000-gsf proposed school. In addition to these use changes, 150,000 gsf would be added to the residential square footage through interior changes within the building envelopes previously analyzed in the DEIR (e.g., smaller units and common areas, lower floor-to-floor heights, improved interior building efficiencies). This change in the development program would fit within the previously analyzed building envelopes, and there would be no changes to the height, width, or length of any buildings. As a result, the revised proposed project would include a total of 3,462,550 gsf, an increase of 150,000 gsf over the proposed project (3,312,550 gsf) analyzed in the DEIR. Changes were made only to the proposed project and not the variant, which would remain the same as described in the DEIR. The revised proposed project was fully studied in the DEIR and RTC document. The "Project" as analyzed under the FEIR and these CEQA Findings includes the proposed project, the revised proposed project and the variant.

In addition to describing and analyzing the physical and environmental impacts of the revisions to the Project, the RTC document provided additional, updated information, clarification and modifications on issues raised by commenters, as well as Planning Department staff-initiated text changes to the DEIR. The Final EIR (FEIR), which includes the DEIR, the RTC document, the Appendices to the DEIR and RTC document, and all of the supporting information, has been reviewed and considered. The RTC documents and appendices and all supporting information do not add significant new information to the DEIR that would individually or collectively constitute significant new information within the meaning of Public Resources Code Section 21092.1 or CEQA Guidelines Section 15088.5 so as to require recirculation of the FEIR (or any portion thereof) under CEQA. The RTC documents and appendices and all supporting information contain no information revealing (1) any new significant environmental impact that

would result from the Project or from a new mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the Project sponsor, or (4) that the DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

The Commission reviewed and considered the FEIR for the Project and found the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the California Environmental Quality Act (Public Resources Code section 21000 et seq.), the CEQA Guidelines (14 Cal. Code Reg. section 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code.

The Commission found the FEIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Planning Commission, and that the summary of comments and responses contained no significant revisions to the DEIR, and certified the FEIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31 by its Motion No. 20247.

The Commission, in certifying the FEIR, found that the Project and/or the variant described in the FEIR will have the following significant and unavoidable environmental impacts:

- Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5, including those resources listed in Article 10 or Article 11 of the San Francisco Planning Code.
- Combine with past, present, and reasonably foreseeable future projects in the vicinity of the project site, to substantially contribute to significant cumulative impacts related to cultural resources.
- Combine with past, present, and reasonably foreseeable future projects in the vicinity of the project site, to substantially contribute to significant cumulative impacts related to transportation and circulation for transit delay.
- Noise from surface transportation sources associated with operation of the Project would result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.
- Combine with past, present, and reasonably foreseeable future projects in the vicinity of the project site, to substantially contribute to significant cumulative impacts related to noise.
- Generate emissions of criteria pollutants and precursors during construction, operations, and overlapping construction and operational activities that could violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria pollutants.
- Generate emissions that could expose sensitive receptors to substantial pollutant concentrations.
- Combine with past, present, and reasonably foreseeable future development in the project area, to contribute to significant cumulative regional air quality impacts.

- Combine with past, present, and reasonably foreseeable future development in the project area, to contribute to significant cumulative health risk impacts on sensitive receptors.
- Alter wind in a manner that substantially affects public areas or outdoor recreation facilities.

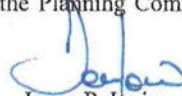
The Commission Secretary is the custodian of records for the Planning Department materials, located in the File for Case No. 2014-002541ENV DVAGPAMAPPCASHD, at 1650 Mission Street, Fourth Floor, San Francisco, California.

On July 26, 2018, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2014-002541ENV DVAGPAMAPPCASHD to consider the approval of the Project. The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the Project, the Planning Department staff, expert consultants and other interested parties.

The Commission has reviewed the entire record of this proceeding, the Environmental Findings, attached to this Motion as Attachment A and incorporated fully by this reference, regarding the alternatives, mitigation measures, environmental impacts analyzed in the FEIR and overriding considerations for approving the Project, and the proposed Mitigation Monitoring and Reporting Program ("MMRP") attached as Attachment B and incorporated fully by this reference, which material was made available to the public.

MOVED, that the Commission hereby adopts these findings under the California Environmental Quality Act, including rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations, as further set forth in Attachment A hereto, and adopts the MMRP attached as Attachment B, based on substantial evidence in the entire record of this proceeding.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of July 26, 2018.



Jonas P. Ionin  
Commission Secretary

AYES: Melgar, Fong, Johnson, Koppel, Richards

NAYS: None

ABSENT: Hillis, Moore

ADOPTED: July 26, 2018



**TRANS PACIFIC GEOTECHNICAL CONSULTANTS, INC.**

445 GRANT AVENUE, SUITE 403, SAN FRANCISCO, CALIFORNIA 94108-3249  
TELEPHONE: (415) 788-8627 FAX: (415) 788-3121

REPORT  
SOIL SAMPLING AND CHEMICAL TESTING  
PROPOSED RUSSIAN SPA  
ASSESSOR'S BLOCK 4644, LOT 5A  
INNES AVENUE  
SAN FRANCISCO, CALIFORNIA

OUR JOB NO. 1535-001

JUNE 28, 1999

# TRANS PACIFIC GEOTECHNICAL CONSULTANTS, INC.

445 GRANT AVENUE, SUITE 403, SAN FRANCISCO, CALIFORNIA 94108-3249  
TELEPHONE: (415) 788-8627 FAX: (415) 788-3121

June 28, 1999

Our Job No. 1535-001

Banya 2000  
1600 Shattuck Avenue, #214-II  
Berkeley, California 94709

Attention: Mr. Reinhard Imhof

Ladies and Gentlemen:

Report  
Soil Sampling and Chemical Testing  
Proposed Russian Spa  
Assessor's Block 4644, Lot 5A  
Innes Avenue  
San Francisco, California

This report presents the results of our soil sampling and chemical testing for the site of the proposed Russian spa in San Francisco, California. The site, known as Lot 5A of Assessor's Block 4644, is located on the north side of Innes Avenue between Earl Street and Fitch Street as shown on the Vicinity Map, Plate 1.

## PROPOSED CONSTRUCTION

Present plans call for construction of a three-story building with a basement. The building will house an in-door swimming pool, hot tubs, exercise rooms, weight rooms, and a restaurant, among others. The basement will be used for parking and a mechanical room. Details of the proposed development have not been finalized and details of the loading information are not available at this time.

## PURPOSE AND SCOPE OF SERVICES

The purpose of our service was to explore the subsurface soil and rock conditions at the site and to collect soil samples for analytical chemical testing. Our service was performed substantially in accordance with our proposal dated May 13, 1999. The scope of our services included a field exploration program of excavating two test pits and performance of analytical chemical testing.

## FIELD EXPLORATION

The subsurface conditions were explored on June 4, 1999, by excavating two test pits with a backhoe at the locations shown on the Plot Plan, Plate 2. The test pits were excavated to depths of about 11 feet to 14 feet below the existing ground surface. The field exploration was performed under the technical direction of one of our geologists who examined and visually classified the soil encountered, maintained a log of test pits, and obtained samples for visual examination and analytical chemical testing. Graphical presentation of the soils encountered is presented on the Log of Exploratory Pit, Plates 3A through 3B. An explanation of the nomenclature and symbols used on the Log of Exploratory Pits is shown on Plate 4, Soil Classification Chart and Key to Test Data. The

logs of test pits show subsurface conditions on the date and at the locations indicated, and it is not warranted that they are representative of subsurface conditions at other times or locations. After completion of the excavation operation, the test pits were loosely backfilled with the excavated soils and randomly rolled with the rubber-tired wheels.

The soil samples were collected with appropriate sampling protocol. These samples were initially stored in an ice chest and subsequently refrigerated for proper storage and eventual transport to the analytical laboratory. A chain of custody of these samples was maintained.

**DISCUSSION**

Soil samples were hand delivered to the premise of Caltest Analytical Laboratory in Napa, California on June 7, 1999. We were directed by Mr. R. Imhof to hold the testing of soil samples obtained in Test Pit 1 in abeyance; therefore, analytical testing was assigned only on soil samples obtained in Test Pit 2. These tests included testing for heavy metals, asbestos, total petroleum hydrocarbons as gas and total petroleum hydrocarbons as diesel and polychlorinated biphenyls (PCB).

The results of the analytical testing, as presented by Caltest Analytical Laboratory, are presented in the Appendix.

**CLOSURE**

Our services have been performed with the usual thoroughness and competence of the engineering profession. No other warranty or representation, either expressed or implied, is included or intended.

If you have any questions regarding this report or require additional information, please contact us. The following plates and appendix are attached and complete this report.

- |                  |  |
|------------------|--|
| Plate 1          | Vicinity Map   |
| Plate 2          | Plot Plan  |
| Plates 3A and 3B | Log Of Exploratory Pit   |
| Plate 4          | Soil Classification Chart and Key to Test Data                           |
| Appendix         | Report prepared by Caltest Analytical Laboratory and dated June 25, 1999 |



Yours very truly,  
Trans Pacific Geotechnical Consultants, Inc.

*Eddy T. Lau*

Eddy T. Lau, P.E.  
Reg. Civil Engineer 019897  
Reg. Geotechnical Engineer 506  
Expiration 9/30/2001

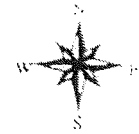
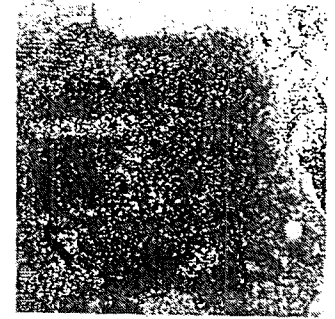
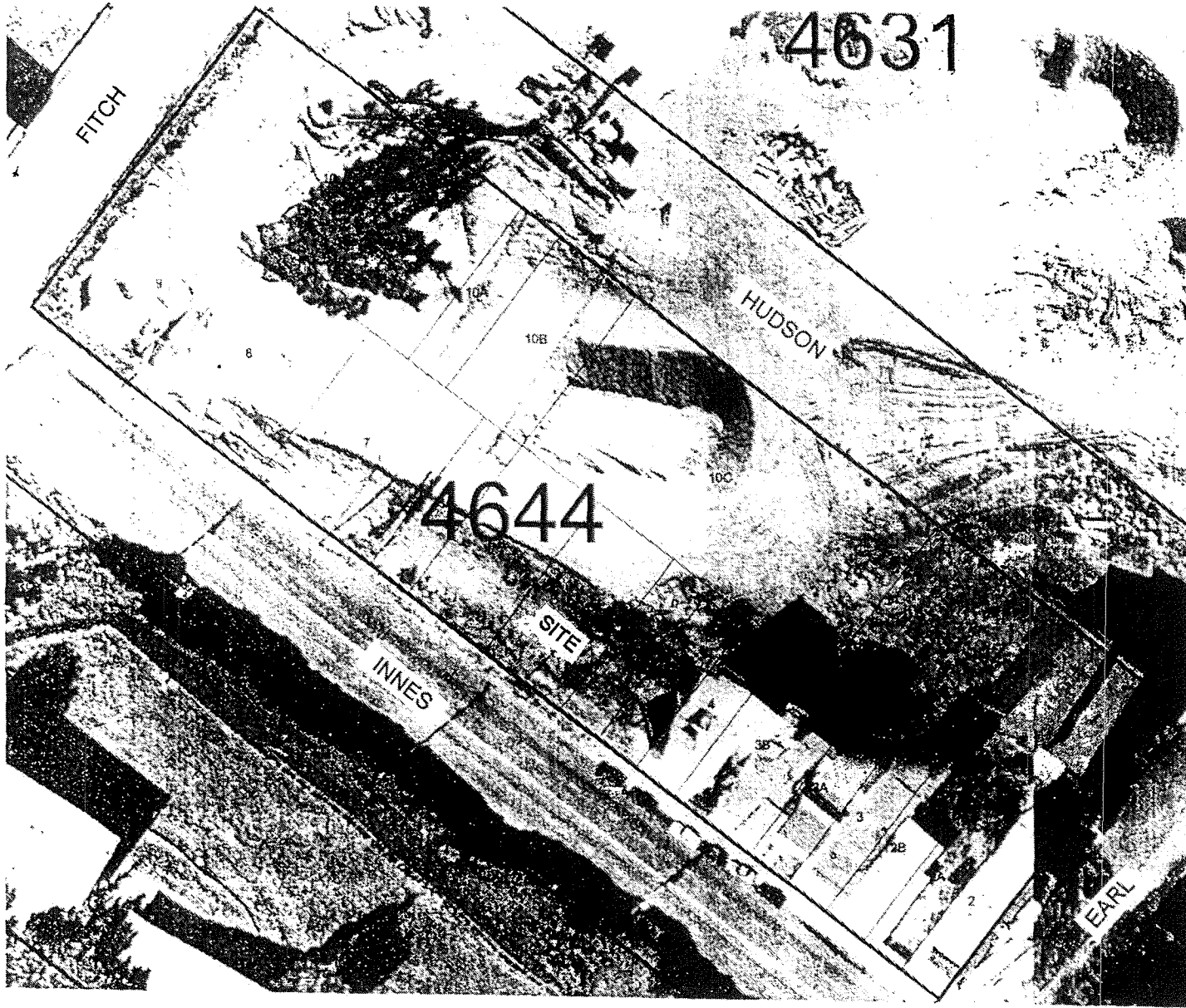
(Six copies submitted)

cc: ARCUS Architecture and Planning (2)  
445 Grant Avenue, Suite 404  
San Francisco, California 94108  
Attention: Mr. Samuel Kwong

WPN:1535001.RE2

# SF Digital Basemap

1535-001 Proposed Russian Spa, Innes Avenue, San Francisco, California



## VICINITY MAP

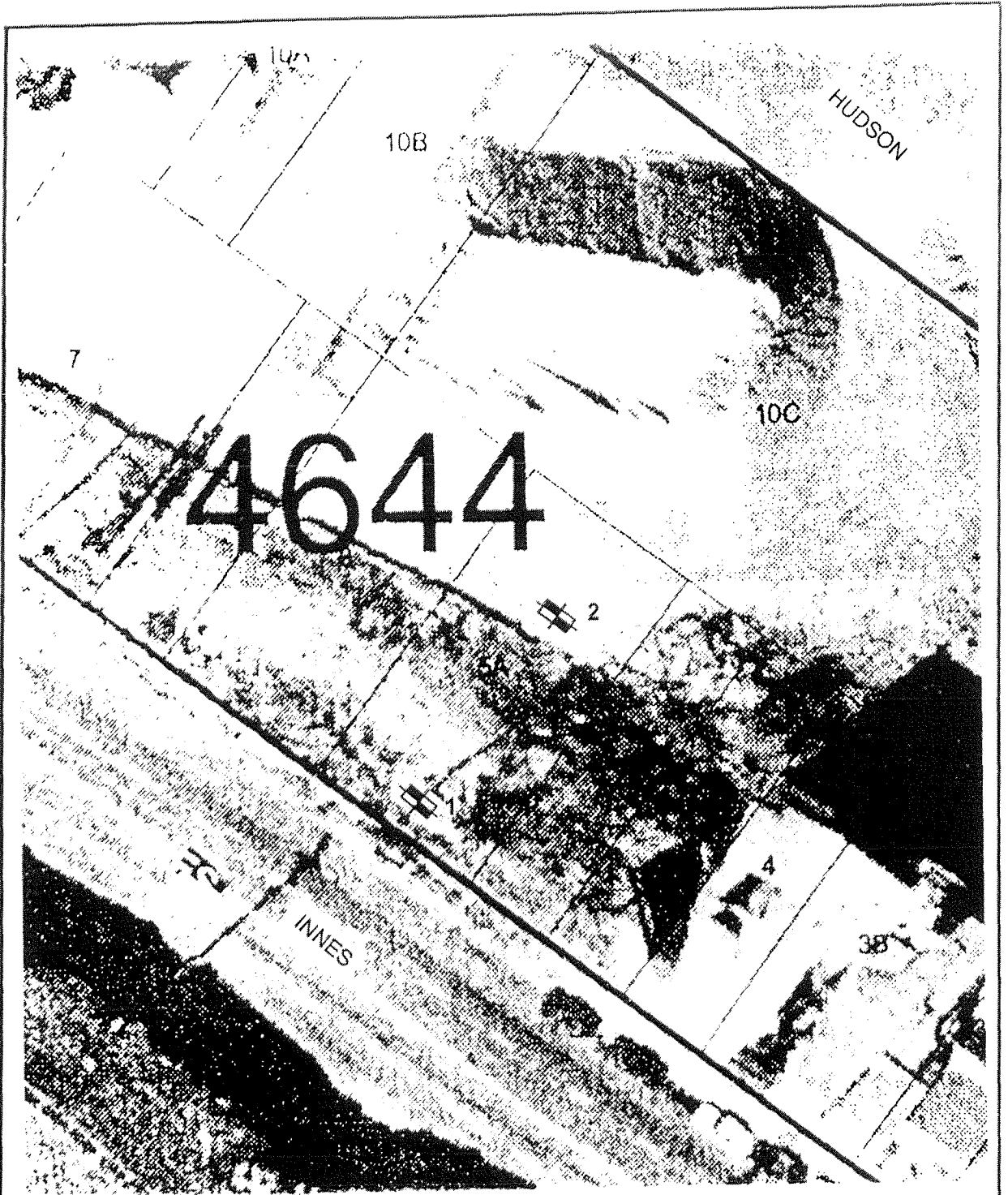
Source: Department of  
Public Works.  
Copyright, 1996

30 0 30 60 Feet

Trans Pacific Geotechnical Consultants, Inc.

PLATE 1

1535-001 Proposed Russian Spa, Innes Avenue, San Francisco, California



Test Pit Location



SCALE IN FEET

# PLOT PLAN

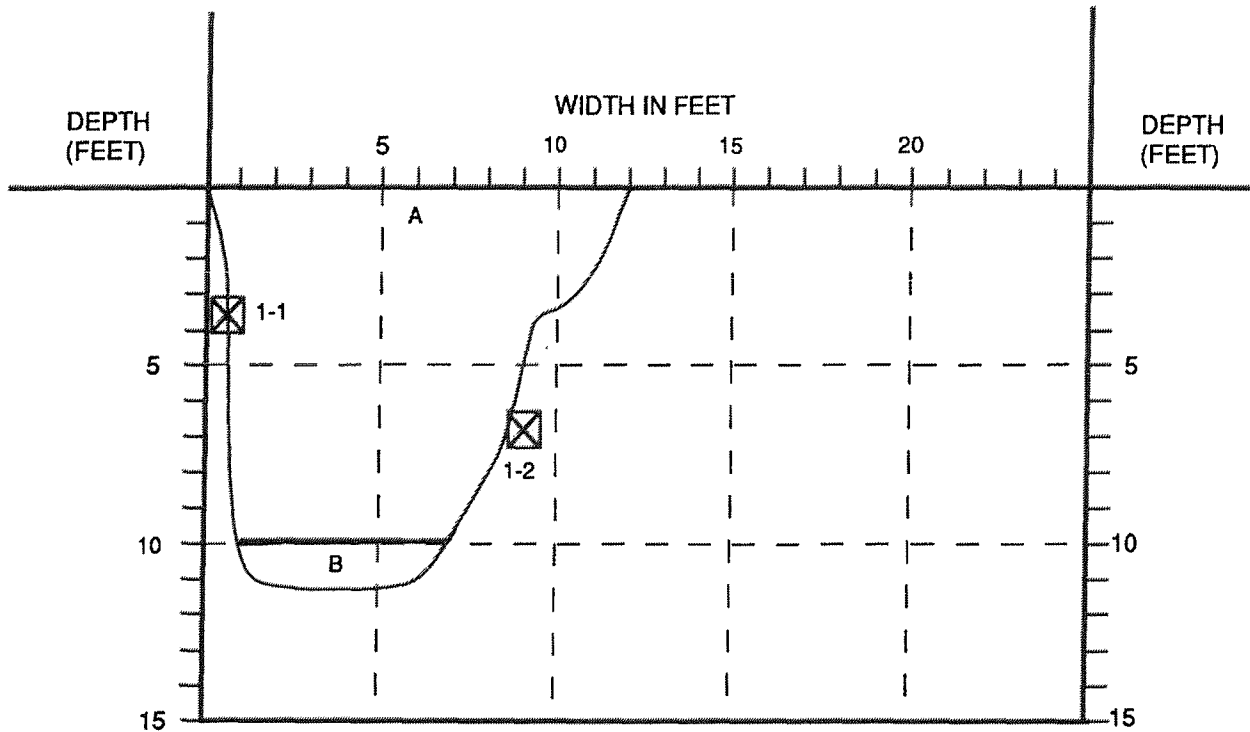
TRANS PACIFIC GEOTECHNICAL CONSULTANTS, INC.

PLATE 2

# TEST PIT 1

SURFACE ELEVATION: \_\_\_\_\_ DATE EXCAVATED: 6/4/99

LOGGED BY: DRF EQUIPMENT: backhoe DATE BACKFILLED: 6/4/99



■ INDICATES DEPTH OF UNDISTURBED SAMPLE

⊠ INDICATES DEPTH OF DISTURBED SAMPLE

A. GC, Sandy GRAVEL with trace clay and serpentine rock fragments, occasional cobbles, dry to damp, (loose), [FILL].

B. CL, Brown silty CLAY with rock fragments, moist.

## LOG OF EXPLORATORY PIT

Trans Pacific Geotechnical Consultants, Inc.

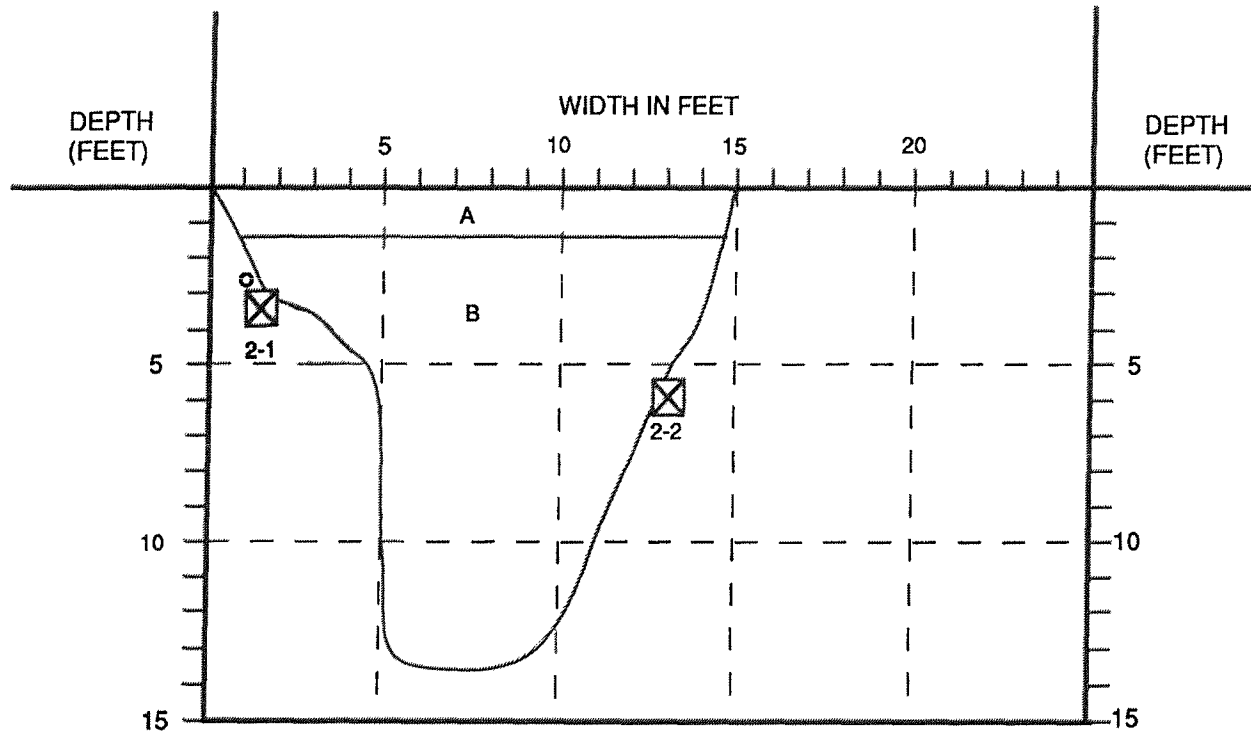
PLATE 3A

1535-06, Proposed Russian Spa, Innes Avenue, San Francisco, California

# TEST PIT 2

SURFACE ELEVATION: \_\_\_\_\_ DATE EXCAVATED: 6/4/99

LOGGED BY: DRF EQUIPMENT: backhoe DATE BACKFILLED: 6/4/99



- INDICATES DEPTH OF UNDISTURBED SAMPLE
- ⊗ INDICATES DEPTH OF DISTURBED SAMPLE
- o PIPE

- A. GW, Sandy GRAVEL, dry, (loose), [FILL].
- B. CL/GC, Dark brown and black layered sandy CLAY with wood, brick, reinforcing steel, large rock fragments, and a block of granite, moist, (loose and soft), [FILL]. Grading to yellowish brown clayey GRAVEL at around 11 feet to 12 feet, moist, (loose), [FILL].

## LOG OF EXPLORATORY PIT

Trans Pacific Geotechnical Consultants, Inc.

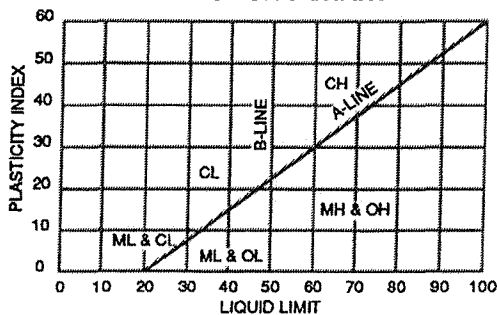
PLATE 3B

1535-001 Proposed Russian Spa, Innes Avenue, San Francisco, California

# UNIFIED SOIL CLASSIFICATION SYSTEM

SYMBOL	LETTER	DESCRIPTION	MAJOR DIVISIONS				
	GW	WELL-GRADED GRAVELS, GRAVEL-SAND MIXTURES, LITTLE OR NO FINES	<b>CLEAN GRAVELS</b> (LITTLE OR NO FINES)	<b>GRAVELS WITH FINES</b> (APPRECIABLE AMOUNT OF FINES)	<b>GRAVELS</b> MORE THAN 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE		
	GP	POORLY-GRADED GRAVELS, GRAVEL-SAND MIXTURES, LITTLE OR NO FINES					
	GM	SILTY GRAVELS, GRAVEL-SAND-SILT MIXTURES					
	GC	CLAYEY GRAVELS, GRAVEL-SAND-CLAY MIXTURES					
	SW	WELL-GRADED SAND, GRAVELLY SANDS, LITTLE OR NO FINES	<b>CLEAN SANDS</b> (LITTLE OR NO FINES)	<b>SANDS WITH FINES</b> (APPRECIABLE AMOUNT OF FINES)	<b>SANDS</b> 50% OR MORE OF COARSE FRACTION PASSES NO. 4 SIEVE		
	SP	POORLY-GRADED SANDS, GRAVELLY SANDS, LITTLE OR NO FINES					
	SM	SILTY SANDS, SAND-SILT MIXTURES					
	SC	CLAYEY SANDS, SAND-CLAY MIXTURES					
	ML	INORGANIC SILTS AND VERY FINE SANDS, ROCK FLOUR, SILTY OR CLAYEY FINE SANDS, CLAYEY SILTS WITH SLIGHT PLASTICITY	<b>SILTS &amp; CLAYS</b> (LIQUID LIMIT LESS THAN 50)	<b>COARSE-GRAINED SOILS</b> MORE THAN 50% OF MATERIAL IS RETAINED ON NO. 200 SIEVE	FOR VISUAL CLASSIFICATION, THE 1/4" SIZE MAY BE USED AS EQUIVALENT TO THE NO. 4 SIEVE SIZE		
	CL	INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS					
	OL	ORGANIC SILTS AND ORGANIC SILT-CLAYS OF LOW PLASTICITY					
	MH	INORGANIC SILTS, MICACEOUS OR DIATOMACEOUS FINE SANDY OR SILTY SOILS, ELASTIC SILTS	<b>SILTS &amp; CLAYS</b> (LIQUID LIMIT 50 OR MORE)			<b>FINE-GRAINED SOILS</b> 50% OR MORE OF MATERIAL PASSES THE NO. 200 SIEVE	THE NO. 200 U.S. STANDARD SIEVE SIZE IS ABOUT THE SMALLEST PARTICLE VISIBLE TO THE NAKED EYE
	CH	INORGANIC CLAYS OF HIGH PLASTICITY, FAT CLAYS					
	OH	ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS					
	PT	PEAT AND OTHER HIGHLY ORGANIC SOILS	<b>HIGHLY ORGANIC SOILS</b>				

**PLASTICITY CHART**



**TYPES OF SOIL SAMPLERS**

- MC - MODIFIED CALIFORNIA SAMPLER
- NX - ROCK CORING
- P - PISTON SAMPLER
- PT - PITCHER BARREL SAMPLER
- S - SHELBY SAMPLER
- SPT - STANDARD PENETRATION TEST SAMPLER
- U - UNDERWATER SAMPLER

**KEY TO SAMPLES**

- INDICATES DEPTH OF UNDISTURBED SAMPLE
- INDICATES DEPTH OF DISTURBED SAMPLE
- INDICATES DEPTH OF SAMPLING ATTEMPT WITH NO RECOVERY
- INDICATES DEPTH OF STANDARD PENETRATION TEST
- INDICATES DEPTH OF UNDISTURBED "S" (SHELBY) TYPE SAMPLE

**KEY TO TEST DATA**

- GS - GRAIN-SIZE DISTRIBUTION
- DSCU - DIRECT SHEAR TEST, CONSOLIDATED - UNDRAINED
- DSUU - DIRECT SHEAR TEST, UNCONSOLIDATED - UNDRAINED
- TXUU - TRIAXIAL COMPRESSION TEST, UNCONSOLIDATED - UNDRAINED

**SOIL CLASSIFICATION CHART  
AND KEY TO TEST DATA**

Trans Pacific Geotechnical Consultants, Inc.



# APPENDIX

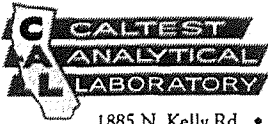
Report

Prepared By

CALTEST ANALYTICAL LABORATORY

Laboratory No. 9906-181

June 25, 1999



1885 N. Kelly Rd. • Napa, California 94558

(707) 258-4000 • Fax: (707) 226-1001

CERTIFIED ENVIRONMENTAL SERVICES  
CALIFORNIA ELAP #1664

June 25, 1999

Mr. Eddy T. Lau, P.E.  
Trans Pacific GeoTechnical  
445 Grant Avenue, Suite 403  
San Francisco, CA 94108


Dear Mr. Lau:

On June 7, 1999, Caltest received four soil samples which were logged into our system as lab order number 9906181. Per your request, two of the four samples were analyzed for California Assessment Manual (CAM) Metals, Asbestos, Total Petroleum Hydrocarbons (TPH) as Gas, Total Petroleum Hydrocarbons (TPH) as Diesel, and Polychlorinated Biphenyls (PCB).

The following analytical report indicates a detection on both soil samples for an unidentified petroleum hydrocarbon pattern which was quantitated as Diesel # 2. All metals were below the Total Threshold Limit Concentration (TTLC) Limits, however, Chromium and Lead were detected above 10 times the Soluble Threshold Limit Concentration (STLC) Limit. This is an indication that an STLC Extraction and analysis needs to be performed on both soil samples for Chromium, and Lead.

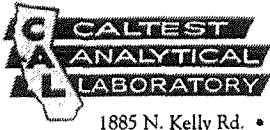
Please do not hesitate to call me at the laboratory if you have any questions regarding this report.

Sincerely,  
Caltest Analytical Laboratory



Todd M. Albertson  
Project Manager

Enclosure(s):  
Caltest Lab Order # 9906181



1885 N. Kelly Rd. • Napa, California 94558

CERTIFIED ENVIRONMENTAL SERVICES  
CALIFORNIA ELAP #1664

(707) 258-4000 • Fax: (707) 226-1001

LAB ORDER No.: 9906-181  
Page 1 of 6

REPORT of ANALYTICAL RESULTS

Report Date: 25 JUN 1999  
Received Date: 07 JUN 1999

Client: Eddy T. Lau, P.E.  
Trans Pacific GeoTechnical  
445 Grant Avenue, Suite 403  
San Francisco, CA 94108

Project: 1535-001 RUSSIAN SPA

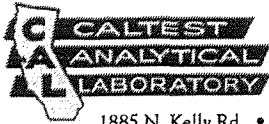
Sampled by: DON FOWLER

<u>Lab Number</u>	<u>Sample Identification</u>	<u>Matrix</u>	<u>Sampled Date/Time</u>
9906181-1	2-1 (A & B) 3'6"	SOIL	04 JUN 99 09:20
9906181-2	2-2 (A & B) 5'6"	SOIL	04 JUN 99 09:40
9906181-3	1-1 (A & B) 3'3"	SOIL	04 JUN 99 08:30
9906181-4	1-2 (A & B) 6'6"	SOIL	04 JUN 99 08:40

Todd M. Albertson  
Project Manager

Christine Horn  
Laboratory Director

CALTEST authorizes this report to be reproduced only in its entirety.  
Results are specific to the sample as submitted and only to the parameters reported.  
All analyses performed by EPA Methods or Standard Methods (SM) 18th Ed. except where noted.  
Results of 'ND' mean not detected at or above the listed Reporting Limit (R.L.).  
'D.F.' means Dilution Factor and has been used to adjust the listed Reporting Limit (R.L.).  
Acceptance Criteria for all Surrogate recoveries are defined in the QC Spike Data Reports.



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CALIFORNIA ELAP #1664

LAB ORDER No. :

9906-181

INORGANIC ANALYTICAL RESULTS

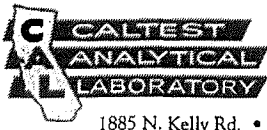
Page 2 of 6

ANALYTE	RESULT	R.L.	UNITS	D.F.	METHOD	ANALYZED	QC BATCH	NOTES
LAB NUMBER: 9906181-1								
SAMPLE ID: 2-1 (A & B) 3'6"								
SAMPLED: 04 JUN 99 09:20								
Antimony	ND	2.	mg/kg	10	6010B	06.16.99	A990421ICP	1.2
Arsenic	6.7	0.8	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Barium	110.	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Beryllium	ND	1.	mg/kg	10	6010B	06.16.99	A990421ICP	1,2,3
Cadmium	ND	0.2	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Chromium	57.	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Cobalt	11.	0.4	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Copper	56.	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Lead	210.	0.6	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Mercury	0.6	0.1	mg/kg	5	7471A	06.16.99	A990428MER	2.4
Molybdenum	ND	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Nickel	80.	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Selenium	ND	2.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Silver	ND	0.6	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Thallium	ND	2.	mg/kg	10	6010B	06.16.99	A990421ICP	1.2
Vanadium	42.	0.4	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Zinc	150.	4.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Asbestos	RR		%	1	PLM			5.6

LAB NUMBER: 9906181-2  
 SAMPLE ID: 2-2 (A & B) 5'6"  
 SAMPLED: 04 JUN 99 09:40

Antimony	ND	2.	mg/kg	10	6010B	06.16.99	A990421ICP	1.2
Arsenic	4.7	0.8	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Barium	84.	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Beryllium	ND	1.	mg/kg	10	6010B	06.16.99	A990421ICP	1,2,3
Cadmium	ND	0.2	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Chromium	51.	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Cobalt	10.	0.4	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Copper	41.	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Lead	89.	0.6	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Mercury	1.2	0.2	mg/kg	10	7471A	06.16.99	A990428MER	2.4
Molybdenum	ND	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Nickel	55.	1.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Selenium	ND	2.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2

- 1) Sample Preparation on 06-14-99 using 3050B
- 2) Result expressed as wet weight of sample.
- 3) The Reporting Limit (R.L.) was raised due to background interference noted in the sample.
- 4) Sample Preparation on 06-15-99 using 7471A
- 5) Analysis performed by EMSL Analytical, ELAP certification # 1620.
- 6) Refer to the attached reference laboratory report for the original certificate of analysis and supporting Quality Control data.



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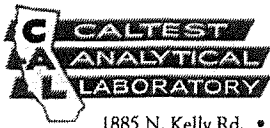
9906-181

INORGANIC ANALYTICAL RESULTS

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ANALYTE	RESULT	R.L.	UNITS	D.F.	METHOD	ANALYZED	QC BATCH	NOTES
LAB NUMBER: 9906181-2 (continued)								
Silver	ND	0.6	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Thallium	ND	2.	mg/kg	10	6010B	06.16.99	A990421ICP	1.2
Vanadium	45.	0.4	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Zinc	100.	4.	mg/kg	10	6010B	06.15.99	A990421ICP	1.2
Asbestos	RR		%	1	PLM			3.4

- 1) Sample Preparation on 06-14-99 using 3050B
- 2) Result expressed as wet weight of sample.
- 3) Analysis performed by EMSL Analytical, ELAP certification # 1620.
- 4) Refer to the attached reference laboratory report for the original certificate of analysis and supporting Quality Control data.



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LAB ORDER No.:

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ORGANIC ANALYTICAL RESULTS

ANALYTE	RESULT	R.L.	UNITS	D.F.	ANALYZED	QC BATCH	NOTES
LAB NUMBER: 9906181-1							
SAMPLE ID: 2-1 (A & B) 3'6"							
SAMPLED: 04 JUN 99 09:20							
METHOD: EPA 8082							
POLYCHLORINATED BIPHENYLS (PCBS)							
				1	06.19.99	T9901510CP	1,2,3
PCB 1016	ND	0.1	mg/kg				
PCB 1221	ND	0.1	mg/kg				
PCB 1232	ND	0.1	mg/kg				
PCB 1242	ND	0.1	mg/kg				
PCB 1248	ND	0.1	mg/kg				
PCB 1254	ND	0.1	mg/kg				
PCB 1260	ND	0.1	mg/kg				
Surrogate TCMX	94.		%				
Surrogate Decachlorobiphenyl	103.		%				

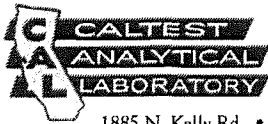
LAB NUMBER: 9906181-1 (continued)  
 SAMPLE ID: 2-1 (A & B) 3'6"  
 SAMPLED: 04 JUN 99 09:20  
 METHOD: EPA 8015M

TOTAL SEMI-VOLATILE PETROLEUM							
HYDROCARBONS							
				1	06.18.99	T990148TPH	2,4,5
Diesel Fuel	ND	4.	mg/Kg				
TPH-Extractable, quantitated as diesel	14.	4.	mg/Kg				
Surrogate o-Terphenyl	85.		%				

LAB NUMBER: 9906181-1 (continued)  
 SAMPLE ID: 2-1 (A & B) 3'6"  
 SAMPLED: 04 JUN 99 09:20  
 METHOD: EPA 8020A

AROMATIC HYDROCARBONS							
				1	06.09.99	V990064G9A	2,6
Benzene	ND	0.0025	mg/kg				
Toluene	ND	0.0025	mg/kg				
Ethylbenzene	ND	0.0025	mg/kg				
Xylenes (Total)	ND	0.0025	mg/kg				

- 1) Sample Preparation on 06-15-99 using EPA 3550
- 2) Result expressed as wet weight of sample.
- 3) The final volume of the sample extract was higher than the nominal amount, resulting in (a) higher reporting limit(s).
- 4) Sample Preparation on 06-11-99 using EPA 3550
- 5) An unidentified petroleum hydrocarbon was present in the sample. An approximate concentration has been calculated based on Diesel #2 standards.
- 6) Sample Preparation on 06-09-99 using EPA 5030



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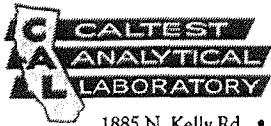
CERTIFIED ENVIRONMENTAL SERVICES  
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LAB ORDER No.: 9906-181  
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ORGANIC ANALYTICAL RESULTS

ANALYTE	RESULT	R.L.	UNITS	D.F.	ANALYZED	QC BATCH	NOTES
LAB NUMBER: 9906181-1 (continued) SAMPLE ID: 2-1 (A & B) 3'6" SAMPLED: 04 JUN 99 09:20 METHOD: EPA 8020A							
AROMATIC HYDROCARBONS (continued)				1	06.09.99	V990064G9A	
Surrogate 4-Bromofluorobenzene [PID]	106.		%				
LAB NUMBER: 9906181-2 SAMPLE ID: 2-2 (A & B) 5'6" SAMPLED: 04 JUN 99 09:40 METHOD: EPA 8082							
POLYCHLORINATED BIPHENYLS (PCBS)				1	06.19.99	T9901510CP	1,2
PCB 1016	ND	0.02	mg/kg				
PCB 1221	ND	0.02	mg/kg				
PCB 1232	ND	0.02	mg/kg				
PCB 1242	ND	0.02	mg/kg				
PCB 1248	ND	0.02	mg/kg				
PCB 1254	ND	0.02	mg/kg				
PCB 1260	ND	0.02	mg/kg				
Surrogate TCMX	87.		%				
Surrogate Decachlorobiphenyl	100.		%				
LAB NUMBER: 9906181-2 (continued) SAMPLE ID: 2-2 (A & B) 5'6" SAMPLED: 04 JUN 99 09:40 METHOD: EPA 8015M							
TOTAL SEMI-VOLATILE PETROLEUM HYDROCARBONS				1	06.18.99	T990148TPH	2,3,4
Diesel Fuel	ND	4.	mg/Kg				
TPH-Extractable, quantitated as diesel	59.	4.	mg/Kg				
Surrogate o-Terphenyl	94.		%				

- 1) Sample Preparation on 06-15-99 using EPA 3550
- 2) Result expressed as wet weight of sample.
- 3) Sample Preparation on 06-11-99 using EPA 3550
- 4) An unidentified petroleum hydrocarbon was present in the sample. An approximate concentration has been calculated based on Diesel #2 standards.



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ORGANIC ANALYTICAL RESULTS

<u>ANALYTE</u>	<u>RESULT</u>	<u>R.L.</u>	<u>UNITS</u>	<u>D.F.</u>	<u>ANALYZED</u>	<u>QC BATCH</u>	<u>NOTES</u>
LAB NUMBER: 9906181-2 (continued)							
SAMPLE ID: 2-2 (A & B) 5'6"							
SAMPLED: 04 JUN 99 09:40							
METHOD: EPA 8020A							
AROMATIC HYDROCARBONS							
Benzene	ND	0.0025	mg/kg	1	06.09.99	V990064G9A	1.2
Toluene	ND	0.0025	mg/kg				
Ethylbenzene	ND	0.0025	mg/kg				
Xylenes (Total)	ND	0.0025	mg/kg				
Surrogate 4-Bromofluorobenzene [PID]	110.		%				

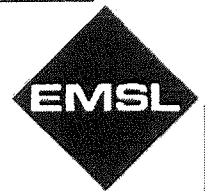
- 1) Sample Preparation on 06-09-99 using EPA 5030
- 2) Result expressed as wet weight of sample.



# EMSL Analytical, Inc.

382 South Abbott Avenue  
Milpitas, CA 95035

Phone: (408) 934-7010 Fax: (408) 934-7015



Attn.: Todd Albertson  
Caltest Analytical Laboratory  
1885 N. Kelly Road  
Napa, CA 94558

Tuesday, June 15, 1999

Ref Number: CA993492

## POLARIZED LIGHT MICROSCOPY (PLM)


Performed by EPA 600/R-93/116 Method\*

Project: 9906181

Sample	Location	Appearance	Sample Treatment	ASBESTOS		NON-ASBESTOS	
				%	Type	%	Fibrous % Non-Fibrous
9906181-1	2-1 (A & B) 3' 6"	Black Non-Fibrous Homogeneous	Crushed	None Detected		25% Quartz 75% Other	
9906181-2	2-2 (A & B) 3' 6"	Black Non-Fibrous Homogeneous	Crushed	None Detected		25% Quartz 75% Other	

Comments: For all obviously heterogeneous samples easily separated into subsamples, and for layered samples, each component is analyzed separately. Also, "# of Layers" refers to number of separable subsamples.

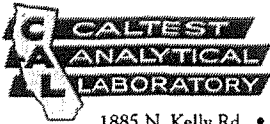
\* NY samples analyzed by ELAP 198.1 Method.

  
Nonette Patron  
Analyst

  
Approved  
Signatory

Disclaimers: PLM has been known to miss asbestos in a small percentage of samples which contain asbestos. Thus negative PLM results cannot be guaranteed. EMSL suggests that samples reported as <1% or none detected be tested with either SEM or TEM. The above test report relates only to the items tested. This report may not be reproduced, except in full, without written approval by EMSL. The above test must not be used by the client to claim product endorsement by NVLAP nor any agency of the United States Government. Laboratory is not responsible for the accuracy of results when requested to physically separate and analyze layered samples.

1



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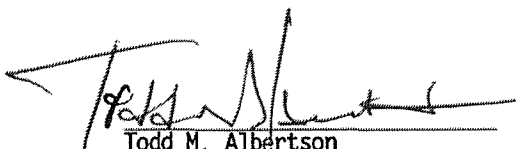
SUPPLEMENTAL QUALITY CONTROL (QC) DATA REPORT


Report Date: 25 JUN 1999  
Received Date: 07 JUN 1999

Client: Eddy T. Lau, P.E.  
Trans Pacific GeoTechnical  
445 Grant Avenue, Suite 403  
San Francisco, CA 94108

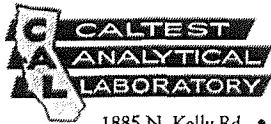
Project: 1535-001 RUSSIAN SPA

<u>QC Batch ID</u>	<u>Method</u>	<u>Matrix</u>
A990421ICP	6010B	SOIL
A990428MER	7471A	SOIL
T990148TPH	8015M	SOIL
T9901510CP	8082	SOIL
V990064G9A	8020A	SOIL

  
Todd M. Albertson  
Project Manager

  
Christine Horn  
Laboratory Director

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Results are specific to the sample as submitted and only to the parameters reported.  
All analyses performed by EPA Methods or Standard Methods (SM) 18th Ed. except where noted.  
Results of 'ND' mean not detected at or above the listed Reporting Limit (R.L.).  
Analyte Spike Amounts reported as 'NS' mean not spiked and will not have recoveries reported.  
'RPD' means Relative Percent Difference and RPD Acceptance Criteria is stated as a maximum.  
'NC' means not calculated for RPD or Spike Recoveries.



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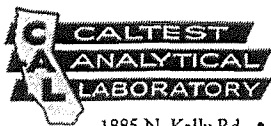
9906-181

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METHOD BLANK ANALYTICAL RESULTS

<u>ANALYTE</u>	<u>RESULT</u>	<u>R.L.</u>	<u>UNITS</u>	<u>ANALYZED</u>	<u>NOTES</u>
<b>QC BATCH: A990421ICP</b>					
Antimony	ND	2.	mg/kg	06.16.99	
Arsenic	ND	0.8	mg/kg	06.15.99	
Barium	ND	1.	mg/kg	06.15.99	
Beryllium	ND	0.2	mg/kg	06.16.99	
Cadmium	ND	0.2	mg/kg	06.15.99	
Chromium	ND	1.	mg/kg	06.15.99	
Cobalt	ND	0.4	mg/kg	06.15.99	
Copper	ND	1.	mg/kg	06.15.99	
Lead	ND	0.6	mg/kg	06.15.99	
Molybdenum	ND	1.	mg/kg	06.15.99	
Nickel	ND	1.	mg/kg	06.15.99	
Selenium	ND	2.	mg/kg	06.15.99	
Silver	ND	0.6	mg/kg	06.15.99	
Thallium	ND	2.	mg/kg	06.16.99	
Vanadium	ND	0.4	mg/kg	06.15.99	
Zinc	4.45	4.	mg/kg	06.15.99	1
<b>QC BATCH: A990428MER</b>					
Mercury, TTLC	ND	0.01	mg/kg	06.16.99	
<b>QC BATCH: T990148TPH</b>					
TOTAL SEMI-VOLATILE PETROLEUM HYDROCARBONS				06.18.99	
Diesel Fuel	ND	4.	mg/Kg		
TPH-Extractable, quantitated as diesel	ND	4.	mg/Kg		
Surrogate o-Terphenyl	97.		%		
<b>QC BATCH: T9901510CP</b>					
POLYCHLORINATED BIPHENYLS (PCBS)				06.19.99	
PCB 1016	ND	0.02	mg/kg		
PCB 1221	ND	0.02	mg/kg		
PCB 1232	ND	0.02	mg/kg		
PCB 1242	ND	0.02	mg/kg		
PCB 1248	ND	0.02	mg/kg		
PCB 1254	ND	0.02	mg/kg		
PCB 1260	ND	0.02	mg/kg		
Surrogate TCMX	59.		%		
Surrogate Decachlorobiphenyl	142.		%		

1) Low level contamination noted in the Method Blank; sample results less than the RL or greater than 10 times the contamination level are reported.



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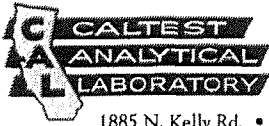
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METHOD BLANK ANALYTICAL RESULTS

<u>ANALYTE</u>	<u>RESULT</u>	<u>R.L.</u>	<u>UNITS</u>	<u>ANALYZED</u>	<u>NOTES</u>
QC BATCH: V990064G9A					
AROMATIC HYDROCARBONS				06.09.99	
Benzene	ND	0.0025	mg/kg		
Toluene	ND	0.0025	mg/kg		
Ethylbenzene	ND	0.0025	mg/kg		
Xylenes (Total)	ND	0.0025	mg/kg		
Methyl tert-Butyl Ether (MTBE)	ND	.125	mg/kg		
Surrogate 4-Bromofluorobenzene [PID]	112.		%		



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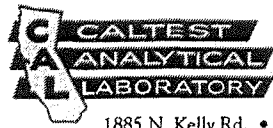
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LABORATORY CONTROL SAMPLE ANALYTICAL RESULTS

ANALYTE	SPIKE AMOUNT	SPIKE\ DUP RESULT	SPK\ DUP %REC	ACCEPTANCE %REC \RPD	REL% DIFF	ANALYZED	NOTES
<b>QC BATCH: A990421ICP</b>							
Antimony	19.8	20.9\	106\	75-125\35		06.16.99	
Arsenic	19.9	21.2\	107\	75-125\35		06.15.99	
Barium	99.6	105.\	105\	75-125\35		06.15.99	
Beryllium	19.8	21.6\	109\	75-125\35		06.16.99	
Cadmium	9.96	10.6\	106\	75-125\35		06.15.99	
Chromium	19.9	21.2\	107\	75-125\35		06.15.99	
Cobalt	19.9	20.4\	103\	75-125\35		06.15.99	
Copper	19.9	20.8\	105\	75-125\35		06.15.99	
Lead	99.6	106.\	106\	75-125\35		06.15.99	
Molybdenum	19.9	21.1\	106\	75-125\35		06.15.99	
Nickel	19.9	20.3\	102\	75-125\35		06.15.99	
Selenium	19.9	20.7\	104\	75-125\35		06.15.99	
Silver	19.9	20.3\	102\	75-125\35		06.15.99	
Thallium	99.2	104.\	105\	75-125\35		06.16.99	
Vanadium	19.9	20.8\	105\	75-125\35		06.15.99	
Zinc	99.6	108.\	108\	75-125\35		06.15.99	
<b>QC BATCH: A990428MER</b>							
Mercury, TTLC	0.200	0.229\	114\	75-125\35		06.16.99	
<b>QC BATCH: T990148TPH</b>							
TOTAL SEMI-VOLATILE PETROLEUM HYDROCARBONS						06.18.99	
Diesel Fuel	66.7	58.6\	88\	59-134\			
Surrogate o-Terphenyl	6.7	7.40\	110\	60-111\			
<b>QC BATCH: T9901510CP</b>							
POLYCHLORINATED BIPHENYLS (PCBS)						06.25.99	
PCB 1260	0.133	0.166\	125\	70-130\			
Surrogate TCMX	0.0133	0.0125\	94\	13-147\			
Surrogate Decachlorobiphenyl	0.0133	0.0158\	119\	23-167\			
<b>QC BATCH: V990064G9A</b>							
AROMATIC HYDROCARBONS						06.09.99	
Benzene	0.033	0.0450\	136\	79-134\			
Toluene	0.195	0.227\	116\	56-140\			
Surrogate 4-Bromofluorobenzene [PID]	0.100	0.113\	113\	72-123\			



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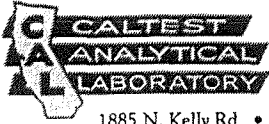
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MATRIX SPIKE ANALYTICAL RESULTS

ANALYTE	ORIGINAL RESULT	SPIKE AMOUNT	SPIKE\NDUP RESULT	SPK\NDUP %REC	ACCEPTANCE %REC \RPD	REL% DIFF	ANALYZED	NOTES
QC BATCH: A990421ICP QC SAMPLE LAB NUMBER: 9906181-1								
Antimony QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	ND	19.8	18.0\19.0	91\96	75-125\35	5.4	06.16.99	
Arsenic QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	6.67	19.9	26.3\25.9	98\96	75-125\35	1.5	06.15.99	
Barium QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	111.	99.6	207.\209.	96\98	75-125\35	1	06.15.99	
Beryllium QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	ND	19.8	19.2\19.1	97\96	75-125\35	0.5	06.16.99	
Cadmium QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	ND	9.96	9.61\9.53	96\96	75-125\35	0.8	06.15.99	
Chromium QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	57.2	19.9	67.8\64.5	53\37	75-125\35	5.0	06.15.99	1
Cobalt QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	10.9	19.9	28.8\28.7	90\89	75-125\35	0.4	06.15.99	
Copper QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	55.8	19.9	72.0\66.5	81\54	75-125\35	7.9	06.15.99	1
Lead QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	211.	99.6	289.\329.	78\118	75-125\35	13.	06.15.99	
Molybdenum QC BATCH: A990421ICP (continued) QC SAMPLE LAB NUMBER: 9906181-1	ND	19.9	20.4\20.3	103\102	75-125\35	0.5	06.15.99	
Nickel	80.3	19.9	83.6\91.5	17\56	75-125\35	9.0	06.15.99	1

1) Spike recovery outside control limits. Spike added less than one half sample concentration. LCS/LCSD and Method Blank are in control.





1885 N. Kelly Rd. • Napa, California 94558

CERTIFIED ENVIRONMENTAL SERVICES  
CALIFORNIA ELAP #1664

(707) 258-4000 • Fax: (707) 226-1001

LAB ORDER No.:

9906-181

Page 6 of 6

MATRIX SPIKE ANALYTICAL RESULTS

ANALYTE	ORIGINAL RESULT	SPIKE AMOUNT	SPIKE\DUP RESULT	SPK\DUP %REC	ACCEPTANCE %REC \RPD	REL% DIFF	ANALYZED	NOTES
QC BATCH: A990421ICP (continued)								
QC BATCH: A990421ICP (continued)								
QC SAMPLE LAB NUMBER: 9906181-1								
Selenium	ND	19.9	20.3\20.1	102\101	75-125\35	1	06.15.99	
QC BATCH: A990421ICP (continued)								
QC SAMPLE LAB NUMBER: 9906181-1								
Silver	ND	19.9	19.5\19.4	98\97	75-125\35	0.5	06.15.99	
QC BATCH: A990421ICP (continued)								
QC SAMPLE LAB NUMBER: 9906181-1								
Thallium	ND	99.2	97.3\97.2	98\98	75-125\35	0.1	06.16.99	
QC BATCH: A990421ICP (continued)								
QC SAMPLE LAB NUMBER: 9906181-1								
Vanadium	42.1	19.9	61.8\58.8	99\84	75-125\35	5.0	06.15.99	
QC BATCH: A990421ICP (continued)								
QC SAMPLE LAB NUMBER: 9906181-1								
Zinc	154.	99.6	268.\245.	114\91	75-125\35	9.0	06.15.99	
QC BATCH: A990428MER								
QC SAMPLE LAB NUMBER: 9906289-1								
Mercury, TTLC	0.0569	0.200	0.268\0.254	106\98	75-125\35	5.4	06.16.99	
QC BATCH: T9901510CP								
QC SAMPLE LAB NUMBER: 9906181-1								
POLYCHLORINATED BIPHENYLS (PCBS)							06.19.99	
PCB 1260	ND	0.133	0.121\0.124	91\93	70-130\20	2.4		
Surrogate TCMX	94.%	0.0133	0.0112\0.0119	84\89	56-129\			
Surrogate Decachlorobiphenyl	103.%	0.0133	0.0133\0.0135	100\102	19-185\			
QC BATCH: V990064G9A								
QC SAMPLE LAB NUMBER: 9906181-2								
AROMATIC HYDROCARBONS							06.09.99	
Benzene	ND	0.033	0.0280\0.0130	85\39	10-179\31	73.		
Toluene	ND	0.195	0.161\0.185	83\95	10-188\14	14.		
Surrogate 4-BromoFluorobenzene [PID]	110.%	0.100	0.106\0.115	106\115	58-143\			



**SAMPLE CHAIN OF CUSTODY**

PROJECT #/ PROJECT NAME  
1535-001 Russian Spa

P.O. #

CLIENT: TRANS PACIFIC GEOTECHNICAL CONSULTANTS, INC. - EDDY T. LAU  
 ADDRESS: 445 GRANT AVENUE SUITE 403, SAN FRANCISCO, CA 94108  
 BILLING ADDRESS: SAA

REPORT TO: EDDY T. LAU

ANALYSES REQUESTED

TURN-AROUND TIME  
 STANDARD  
 RUSH

PHONE #: (415) 788-8627 FAX PHONE: (415) 788-321  
 SAMPLER (PRINT & SIGN NAME): Don Fowler / Don Fowler

DUE DATE:

CALTEST #	DATE SAMPLED	TIME SAMPLED	MATRIX	CONTAINER AMOUNT/TYPE	PRESERVATIVE	SAMPLE IDENTIFICATION SITE	CLIENT LAB #	COMP. or GRAB	REMARKS
-3	6-4-99	8:30	SOIL	brass tube	ICE	1-1a 3'3"			
	↓	6-4-99		glass jar		1-1b 3'3"			
-4	6-4-99	8:40		brass tube		1-2a 6'6"			
	↓	6-4-99		glass jar		1-2b 6'6"			
-1	6-4-99	9:20		brass tube		2-1a 3'6"			
	↓	6-4-99		glass jar		2-1b 3'6"			
-2	6-4-99	9:40		brass tube		2-2a 5'6"			
	↓	6-4-99		glass jar		2-2b 5'6"			

SOISM-DIESEL  
 PCB  
 BTEX  
 CANNMET (17)  
 ASBESTOS

Hold until further notice per client with 7/1/99

By submittal of sample(s), client agrees to abide by the Terms and Conditions set forth on the reverse of this document.

RELINQUISHED BY	DATE/TIME	RECEIVED BY	RELINQUISHED BY	DATE/TIME	RECEIVED BY
Don Fowler	6-4-99 11:00	E. Ran	E. Ran	6/4/99 12 NOON	LABORATOR/REFRIGERATOR
LABORATOR/REFRIGERATOR	6/7/99 9:30 AM	E. Ran	E. Ran	6/7/99 1106	TOCKMAN/SEALS

Samples: WC	MICRO	BIO	AA	SV	VOA	pH?	Y/N	TEMP: 100	SEALED: Y/N	INTACT: Y/N	
BD: BIO	WC	AA	COMMENTS								
CC: AA	SV	VOA									
SIL: HP	PT	QT	VOA								
W: HNO <sub>3</sub>	H <sub>2</sub> SO <sub>4</sub>	NaOH									
PIL: HNO <sub>3</sub>	H <sub>2</sub> SO <sub>4</sub>	NaOH	HCL								

**MATRIX:** AQ = Aqueous Nondrinking Water, Digested Metals; FE = Low P.L.s., Aqueous Nondrinking Water, Digested Metals; DW = Drinking Water; SL = Soil, Sludge, Solid; FP = Free Product  
**CONTAINER TYPES:** AL = Amber Liter; AHL = 500 ml Amber; PT = Pint (Plastic); QT = Quart (Plastic); HG = Half Gallon (Plastic); SJ = Soil Jar; B4 = 4 oz. BACT; BT = Brass Tube; VOA = 40mL VOA; OTC = Other Type Container

FOR LAB USE ONLY

WHITE - LABORATORY  
 YELLOW - CLIENT COPY TO ACCOMPANY FINAL REPORT  
 PINK - CLIENT COPY AS RECEIPT  
 REV. 2/99



Dear Planning Commission,

I am here to express grave concern about the plans being proposed for development around India Basin by Build Inc. While I am broadly supportive of efforts to activate the area and reimagine its land uses with new development, the proposed project overdevelops the shoreline and will destroy the benefits that the existing community enjoys. This project should continue, but it needs to be scaled down to half its size to garner the support of the surrounding neighborhood.

The following statements summarize problems for this project, as seen through the lens of existing residents, particularly long-time homeowners in the area:

- **An overly dense overdevelopment.** The density and clustering of buildings exceeds everything in the area. The plan would easily double the density used in the brand new Shipyard and would triple, quadruple, or quintuple the residential density prior to that. There is no reasonable justification for this increase. Nowhere else in the City has there been a rapid densification of what has been a relatively quiet, residential area. We would prefer to see Build Inc development a business model that enhances the look and feel of a shoreline community than supplant it with an urban neighborhood out of nowhere. Quite simply, this project is building too many units in too small of an area. It needs to be scaled back to something more like half its current size.
- **Building heights incompatible with the rest of the neighborhood.** Even the brand new Shipyard tops out a four-story buildings. The other buildings in the area are one-, two-, and three-story projects. Yet half of the buildings in the Build Inc proposal would be five, six, or seven stories that would soar up in a cluster and loom over everything else. Again, this makes very little sense. While building on this parcel makes sense, this level of density does not. It also appears inconsistent with Prop B in spirit, if not law.
- **Two inappropriately tall and unnecessary mid-rise towers.** The new plans from Build Inc include two 14-story residential towers. Nowhere outside of the high-rises in SoMa are we seeing this intensity of development. It is not only inconsistent with the rest of the area; it will create a bizarre eye sore. These will not be architectural marvels. They will just be two large pillars of concrete sticking up out of nowhere and visually distracting from the shoreline and the basin. The area imagines a perched beach. Stick with that. This should not be planned as if it is South Beach.
- **Insufficient aesthetic consultation with the neighborhood.** Build Inc has held over a hundred public meetings on this project. Why do these meetings not include a 3D rendering of the side that includes the existing housing on Hunters Ridge? The obvious answer is that it would demonstrate precisely what we are pointing out: it would drop an overly tall high-density neighborhood into what is otherwise a shoreline community that enjoys the relationship to the Bay that it will disrupt.
- **Insufficient thought about economic adjacencies.** The current plan does not protect against an economic marginalization in the neighborhood. The project needs features that assure that the development will bring commercial access to all members of the area, not just people who can afford to buy into new condos.
- **Respect for an ecologically sensitive area.** The wetlands that line the shoreline are home to a large number of nesting animals, who are part of the attraction. Overdevelopment will bring too many flight path obstructions, and too much density will undermine the vitality and environmental function of the shoreline's many communities.

The project includes many wonderful ideas, and I would like to recognize them:

- **Awareness of the natural beauty of the area as an asset.** The plan includes open space and landscaping that can create visual, recreational, and economic benefits. Such features include an open meadow, endemic plants, boat launch, perched beach, and shoreline walk.
- **Inclusion of the Bay Trail to create regional connectivity** and to draw people visually, recreationally, and economically into southeastern San Francisco.
- **A mixed-use plan that provides much-needed commercial venues and economic opportunities.** This plan may empower at least some people to live, shop, and potentially work in the same neighborhood.
- **Attractive pedestrian and bike opportunities.** This approach support San Francisco's urban planning requirements under SB 375 (Sustainable Communities Strategy). More importantly, it supports the outdoor livability of the Bay Area that motivate many of us to live here.
- **Cascading building heights to avoid overdevelopment of the Bay's edge.** The creation of sight lines to the Bay across the acreage and beyond is an important part of empowering and activating the entire area, not just one master planner's development.

Without attention to ways that this development blocks the rest of the neighborhood, this project will hoard the area's best features for newcomers. While this project avoids displacement by creating new housing, the current plans are an environmental displacement of existing residents with an overly dense, overly tall, aesthetically disruptive overdevelopment. It needs to be scaled back a size appropriate for the area.

Like other members of the sixty-three household Morgan Heights Homeowners Association, my current position about this project is "oppose." In the strongest possible terms, I encourage the Planning Commission to oppose the current version of the project and send it back for redesign.

However, I could imagine supporting this project if Build Inc were to revise it in the following ways:

- Bring the scale and scope into line with the existing neighborhood;
- Respect existing development by restricting maximum building heights to those less than or equal to the four-story buildings already along Innes Street;
- Construct three-dimensional diagrams of the buildings to evaluate how they will visually, aesthetically, and economically impact the existing neighborhood;
- Continue, as in current plans, to cascade building heights to maximize the primary asset in the area, the Bay shoreline and India Basin;
- Respects the wetland and maintain it in the Bain and along the shoreline as an accessible feature for the entire neighborhood;
- Design for a density that offers the neighborhood and City a step forward without a 2-5x increase in density of developing on one small parcel adjacent to a wetland;

- Includes the following features: Bay Trail connection, open space abutting India Basin, commercial development, ample bike and walk lanes, and boosts for the attractiveness of mass transit connectivity and utility for people who live here;

The current plan includes many amenities that may need the planned density to fund profitably. I would understand if revision to the plans necessitate a scaling back or delay of some nice-to-have features, pending a future assessment of the project's profitability. (An example is the perched beach – a nice feature to have, but not at the expense of overdevelopment.) The most important decision that you make today is how to sustain the beauty of India Basin and the fabric of the residents who already call the area home.

This greenfield conversion is part of a larger effort to reimagine the waterfront from Islais Creek down to Candlestick Point. The design choices made today will not only affect generations to come, but will likely permanently reshape the ecology of the shoreline. The Planning Commission should support development, but it should assure that it does not overbuild. We implore you to think beyond this individual development project and toward the longer-term vitality of the shoreline and the compatibility with the surrounding neighborhood that is also trying to rise.

Please help us help Build Inc scale this back and get it right.



Thank you.

Sincerely,  
Chad White, PhD  
Environmental Planner  
Member of Morgan Heights Homeowners Association

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2018 AUG 23 PM 3:39

BY bw

<b>BANYA 2000, LLC</b> 1801 SAN LORENZO AVENUE BERKELEY, CA 94707		2324
DATE <u>8.23.2018</u> 90-203-1211		
PAY TO THE ORDER OF	<u>San Francisco Planning Department</u>	\$ <u>597.00</u>
	<u>five hundred ninety seven <sup>00</sup>/<sub>100</sub></u>	DOLLARS  Security Features Included. Details on Back.
 <b>Mechanics Bank</b> INDIA BASIN MIXED use Commitment That Lasts Generations Ph. 800-797-3324		
FOR	<u>FEE FOR Appeal to Board of Supervisors project</u>	<u>Albrodsky</u> MP



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SAN FRANCISCO

AUG 27 PM 4:54

for Health & Environmental Justice

August 27, 2018

Clerk of the Board  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall  
San Francisco, CA 94102-4689

**GREENACTION FOR HEALTH AND ENVIRONMENTAL JUSTICE APPEAL OF PLANNING COMMISSION APPROVAL OF INDIA BASIN MIXED USE PROJECT**

Greenaction for Health and Environmental Justice files this appeal of the Planning Commission's approval of the EIR and the India Basin Mixed Use Project. We file this appeal on behalf of our many members and constituents in Bayview Hunters Point whose health, environment, and civil rights will be adversely, disproportionately and significantly impacted by the approval of this project.

Greenaction is a San Francisco-based non-profit organization founded in 1997 and led by grassroots leaders from urban, rural and Indigenous communities which are impacted by pollution, environmental racism, and injustice. We have participated in the project's environmental review and permit process since it began with the Planning Department, submitted written comments starting with the Notice of Preparation/Scoping process, and testified at public hearings held by the Planning Department and Planning Commission on this matter. Due to our extensive participation in the process, and our many members and constituents in the affected community, we have standing to file this appeal.

**I. Planning Commission Improperly Told Greenaction their Decision was Not Appealable**

On August 17, 2018, Michael Li of the Planning Department emailed Bradley Angel, Greenaction's Executive Director, in response to our inquiry about the Planning Commission's decision and questions about appealing that decision.

Greenaction for Health and Environmental Justice  
315 Sutter Street, 2<sup>nd</sup> floor, San Francisco, CA 94108  
Phone: (415) 447-3904 Fax: (415) 447-3905  
www.greenaction.org greenaction@greenaction.org

Mr. Li's email to Greenaction stated incorrectly that "The Planning Commission's decision to adopt CEQA findings and a Statement of Overriding Considerations (M-20248) is not subject to appeal under the EIR certification, as they are related to the project's approvals and not to the adequacy or accuracy of the EIR."

On August 27<sup>th</sup>, Greenaction confirmed via a phone call to the Clerk of the Board of Supervisors that the India Basin Mixed Use Project decision is in fact subject to appeal and we were informed that we can file an appeal today by 5 pm, which we have done.

We are concerned that others may also have been misled by Mr. Li's statement, and we therefore request that a new notice be published and a new appeal period be enacted.

It also appears that the final decision was not posted until August 1, 2018, impacting our appeal of this decision.

## **II. Refusal to Translate Notices and Key Documents Violates the Civil Rights of Non-English Speaking Residents and Improperly and Illegally Excludes them from Meaningful Civic Engagement**

It is unfortunate, and a violation of language access and civil rights, that the "Sanctuary City" of San Francisco refused to translate key notices and key documents into languages spoken by many residents of Bayview Hunters Point.

Following numerous emails and testimony by Greenaction that are part of the administrative record, Lisa Gibson, Environmental Review Officer, Director of Environmental Planning wrote to Greenaction on September 8, 2017.

In that letter, attached and incorporated as part of this appeal, Ms. Gibson wrote:

"We acknowledge that the department did not provide a translated Notice of Availability of the Notice of Preparation of an EIR, an oversight that we deeply regret. At the same time, we respectfully disagree with your proposed remedy that the department restart the CEQA process again, with language noticing as you describe."

As the Planning Department acknowledged the violation of language access, yet refused to remedy it, this project cannot be approved. Approving this project while acknowledging the de facto but very real exclusion of the non-English speaking residents of the affected community is unjust, nothing less than racism, and a violation of civil rights.

The Response to Comments document claimed that CEQA does not require agencies to provide language access services. However, civil rights laws also apply to decisions and actions of the City and County of San Francisco. Denying non-English speakers equal access to this process is a violation of civil rights, regardless of CEQA requirements.

## **III. Compliance with Civil Rights Laws:**

Since the City and County of San Francisco receives federal and state funding, it is subject to and must comply with state and federal civil rights laws (California Government Code 11135 and Title VI of the United States Civil Rights Act). Approval of this project will violate state and federal civil rights laws and the approval must therefore be reversed.

Due to the refusal to translate key notices and documents, and due to approval of this project by the adoption of a Statement of Overriding Consideration, the project will have a significant, negative and disproportionate impact on the at-risk and vulnerable Bayview Hunters Point community. This decision enables the project to add significant unhealthy air pollution about that cannot be mitigated. Therefore, approval of this project would have an unlawful negative impact on protected classes of persons - people of color and non-English speakers - in violation of state and federal civil rights laws. The approval must be reversed.

#### **IV. Statement of Overriding Consideration is Improper, Illegal, and Would Allow Significant Increase in Unhealthy Air Pollution in an At Risk Community**

As mentioned above, the EIR concluded that the project would have several significant negative impacts that cannot be mitigated. The most alarming negative impact that the EIR acknowledges cannot be mitigated would be the addition of air pollution above health thresholds, and the air pollution would occur both during construction and the life of the project.

The City and County of San Francisco have long acknowledged that Bayview Hunters Point residents already suffer the cumulative health impacts from many pollution sources, including the notorious radioactive contamination at the Hunters Point Shipyard Superfund Site located next to India Basin.

The Bay Area Air Quality Management District has identified Bayview Hunters Point as a CARE Community, an acknowledgement of the air quality problems afflicting the community.

The State of California's CalEnviroScreen 3.0 confirms Bayview Hunters Point is one of the communities most at risk from pollution in the entire state, and concluded that it has a higher pollution burden than 90% of the state. CalEnviroScreen, developed by California EPA, measures vulnerability through evaluating and quantifying pollution exposures, environmental effects, sensitive populations and socioeconomic factors. For example, it ranks in the 98th percentile for asthma and very high for both diesel emissions and hazardous waste.

The addition of expensive housing, with some so-called affordable housing, is not a primary overriding consideration. In addition to the fact the increase in housing doesn't help those suffering from air pollution, the so-called affordable housing is still quite expensive and not affordable to those city residents most in need: 20% less than market value is still not affordable in any real world definition.

It is shocking and unacceptable that the City and County would approve any project that would add significant and unhealthy amounts of air pollution to Bayview Hunters Point, claiming that other "benefits" are "overriding."

*Nothing is more important than life, and air pollution kills. That is a fact.*

**V. Comprehensive Testing of the BUILD LLC Site for Hazardous and Radioactive Contamination Has Not Taken Place, and No Remediation Has Occurred**

Unlike the Rec and Park component of the project, BUILD LLC to our knowledge has not conducted comprehensive testing of the proposed project site. In addition, BUILD LLC has publicly stated they have no plan to test for radiation, despite the site's proximity to the radioactive Shipyard Superfund site. In addition, early in the project BUILD LLC actually said to Greenaction via phone and an in person meeting that the only toxic waste at the site is a "few paint cans" – an incorrect statement.

It is improper and premature for the project to be approved for housing and open space without considering the extent and type of toxic contamination at the site and the remediation plan.

**VI. Effects of Sea Level Rise Were Never Evaluated**

The DEIR failed to discuss or evaluate the impact sea level rise will have on the proposed project. The Bay Conservation and Development Commission predict sea level rise of 11 to 19 inches by 2050 and 30 to 55 inches by 2100. An increase of sea level in addition to storm surges exacerbated by climate change will cause coastal flooding, erosion/shoreline retreat, rising groundwater and wetland loss.

**VII. Significant Population and Housing Impacts**

The EIR's conclusion that "The proposed project or variant would not induce substantial population growth..." and would be "less than significant" is contradicted by the project proposal itself. The project would add several thousand primarily upper class residents to Bayview Hunters Point, significantly increasing population size, and dramatically changing the neighborhood's demographics. This would be a major contributor to gentrification – especially when evaluated in combination with the shipyard project.

**VIII. Conclusion**

For all the above reasons, we respectfully urge the Board of Supervisors to uphold justice and civil rights. We ask the Board to protect the health, well-being and community of our city's most at risk residents by rejecting the project's approval.

Sincerely,  
  
Bradley Angel  
Executive Director





# SAN FRANCISCO PLANNING DEPARTMENT

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SAN FRANCISCO

2018 AUG 27 PM 4: 54

BY u

## Planning Commission Motion No. 20247

HEARING DATE: July 26, 2018

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Case No.:* 2014-002541ENV

*Project Address:* India Basin Mixed-Use Project (700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park)

*Zoning:* M-1 (Light Industrial), M-2 (Heavy Industrial), NC-2 (Small-Scale Neighborhood Commercial), and P (Public) Districts  
40-X and OS (Open Space) Height and Bulk Districts

*Block/Lot:* Various Lots on Blocks 4596, 4597, 4605, 4606, 4607, 4620, 4621, 4622, 4629A, 4630, 4631, 4644, 4645, and 4646

*Project Sponsor:* Courtney Pash, BUILD  
(415) 551-7626 or [courtney@bldsf.com](mailto:courtney@bldsf.com)  
Nicole Avril, San Francisco Recreation and Park Department  
(415) 305-8438 or [nicole.avril@sfgov.org](mailto:nicole.avril@sfgov.org)

*Staff Contact:* Michael Li, San Francisco Planning Department  
(415) 575-9107 or [michael.j.li@sfgov.org](mailto:michael.j.li@sfgov.org)

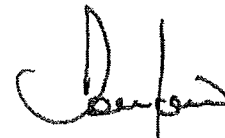
ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED PROJECT AT 700 INNES AVENUE, 900 INNES AVENUE, INDIA BASIN OPEN SPACE, AND INDIA BASIN SHORELINE PARK, THE AREA GENERALLY BOUNDED BY INNES AVENUE ON THE WEST, HUNTERS POINT BLVD. ON THE NORTH, THE SAN FRANCISCO BAY ON THE EAST AND THE EARL STREET RIGHT-OF-WAY ON THE SOUTH (LARGELY EXCLUDING PARCELS WITH STRUCTURES) TOTALING ABOUT 38.24 ACRES. THE BUILD PORTION OF THE INDIA BASIN MIXED-USE PROJECT WOULD INCLUDE THE DEVELOPMENT OF ABOUT 29.26 UNDEVELOPED ACRES (PARCELS AND DESIGNATED RIGHTS-OF-WAY) THAT WOULD RESULT IN APPROXIMATELY 1,575 RESIDENTIAL UNITS, 209,000 GSF OF NONRESIDENTIAL USE, UP TO 1,800 PARKING SPACES, 1,575 BICYCLE PARKING SPACES, 15.5 ACRES OF NEW AND IMPROVED PUBLICLY ACCESSIBLE OPEN SPACE, NEW STREETS AND OTHER PUBLIC REALM IMPROVEMENTS. THE RECREATION AND PARKS DEPARTMENT COMPONENT OF THE PROJECT CONSISTS OF MAKING IMPROVEMENTS TO THE 900 INNES, INDIA BASIN OPEN SPACE, AND INDIA BASIN SHORELINE PARK PROPERTIES. THESE IMPROVEMENTS WOULD INCLUDE ENHANCING EXISTING AND DEVELOPING NEW OPEN SPACE AND RECREATION FACILITIES TOTALING ABOUT 8.98 ACRES. THE SUBJECT SITES ARE CURRENTLY WITHIN THE M-1 (LIGHT INDUSTRIAL), M-2 (HEAVY INDUSTRIAL), NC-2 (SMALL-SCALE NEIGHBORHOOD COMMERCIAL), AND P (PUBLIC) USE DISTRICTS AND 40-X AND OS (OPEN SPACE) HEIGHT AND BULK DISTRICTS.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report (hereinafter "FEIR") identified as Case No. 2014-002541ENV, the "India Basin Mixed-Use Project" at 700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park (hereinafter "the Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "the Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
  - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on June 1, 2016.
  - B. The Department published the Draft EIR (hereinafter "DEIR") on September 13, 2017, and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice and to property owners and occupants within a 300-foot radius of the site on September 13, 2017.
  - C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the project sponsor on September 13, 2017.
  - D. Copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse, on September 13, 2017.
  - E. A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on September 13, 2017.
2. The Commission held a duly advertised public hearing on said DEIR on October 19, 2017, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on October 30, 2017.
3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in Responses to Comments (hereinafter "RTC") document published on July 11, 2018, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
4. An FEIR has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the RTC document, all as required by law.

5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
6. On July 26, 2018, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
7. The project sponsor has indicated that the presently preferred alternative is the Revised Project analyzed in the DEIR and the RTC document.
8. The Planning Commission hereby does find that the FEIR concerning File No. 2014-002541ENV reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the RTC document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.
9. The Commission, in certifying the completion of said FEIR, hereby does find that the Project described in the EIR:
  - A. Will have significant unavoidable project-level environmental effects on cultural resources, noise, air quality, and wind; and
  - B. Will have significant cumulative environmental effects on cultural resources, transportation and circulation, noise, and air quality.
10. The Planning Commission reviewed and considered the information contained in the FEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of July 26, 2018.



Jonas P. Ionin  
Commission Secretary

AYES: Melgar, Fong, Johnson, Koppel, Richards  
NOES: None  
ABSENT: Hillis, Moore  
ADOPTED: July 26, 2018

RE: Request to extend public comment period on scoping for Indi...

**Subject:** RE: Request to extend public comment period on scoping for Indian Basin Mixed-Use Project, and request for the Planning Dept. to provide short presentation at June 15th BVHP EJ Task Force meeting

**From:** "Bollinger, Brett (CPC)" <brett.bollinger@sfgov.org>

**Date:** 6/9/2016 7:52 AM

**To:** Bradley Angel <bradley@greenaction.org>

**CC:** Marie Harrison <marieH@greenaction.org>, "etecia@greenaction.org" <etecia@greenaction.org>

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2016 AUG 27 PM 4:04  
BY [signature]

Thank you for your interest in the project. To be clear about the project notice that was sent out on 6/1/2016 and the overall environmental review process, this was a Notice of Preparation (NOP) of an Environmental Impact Report under the California Environmental Quality Act (CEQA). Although an Initial Study (IS) is attached to the NOP ([http://sfmea.sfplanning.org/2014-002541ENV India%20Basin NOP-IS.pdf](http://sfmea.sfplanning.org/2014-002541ENV%20Basin%20NOP-IS.pdf)) with some environmental topics focused out, the more complex environmental topics (transportation, air quality, noise, biological resources, water/wastewater, etc.) analysis has yet to be published. The technical analysis for the more complex topics will be published as part of the Draft Environmental Impact Report (DEIR), which will include a 60-day public comment period and a public comment hearing in front of the SF Planning Commission within the 60-day comment period. We expect to publish the DEIR in December 2016. Only the Environmental Review Officer (ERO) or the Planning Commission can recommend extension of the comment period. In discussion with the ERO, we don't believe an extension of the scoping comment period is justified in this case. However, we will accept late scoping comment letters since we do not expect the DEIR to be published until late 2016.

Regarding translation services, we can provide that service at the Planning Commission DEIR public hearing if requested. We can also work with individuals over the phone to answer questions regarding the environmental review process and analysis we publish. We do not have the resources to translate every page of analysis into multiple languages. Any individuals that need translation services can go through the Mayor's Office of Disability: <http://sfgov.org/mod/language-access-ordinance>

On Thursday June 16th at 5pm we will be holding a NOP Public Scoping Meeting to receive comments on the NOP/IS that was published on 6/1/2016. At this hearing the public can also comment on environmental topics that should be addressed in the DEIR. I suggest that you contact the project sponsor to request a presentation of the proposed project at your June 15th meeting. My role with this project involves only the CEQA compliance portion for which we are holding a public hearing on 6/16/2016. I can also answer questions via email or over the phone regarding the CEQA process for the project.

Please don't hesitate to contact me with any additional questions, clarifications or comments.

Best,

Brett Bollinger  
San Francisco Planning Department  
Environmental Planning Division  
1650 Mission Street Suite 400  
San Francisco, CA 94103

(415) 575-9024

-----Original Message-----

From: Bradley Angel [<mailto:bradley@greenaction.org>]

Sent: Tuesday, June 07, 2016 12:22 PM

To: Bollinger, Brett (CPC)

Cc: Marie Harrison; [etecia@greenaction.org](mailto:etecia@greenaction.org)

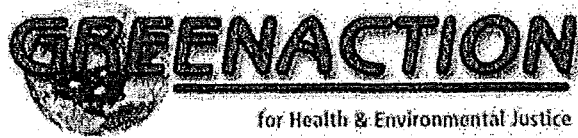
Subject: Request to extend public comment period on scoping for Indian Basin Mixed-Use Project, and request for the Planning Dept. to provide short presentation at June 15th BVHP EJ Task Force meeting

On behalf of our members and constituents in Bayview Hunters Point impacted by the proposed India Basin Mixed-Use Project, we request the Planning Department provide an extended public comment period beyond July 1, 2016. Due to the complexity of the many issues including many potential significant impacts already identified, and the need to ensure meaningful civic engagement in this process, we request that the comment period be extended to July 30, 2016.

In addition, can you tell us if the notice and/or environmental documents were prepared and provided in any language other than English, as it is vital that all members of the community are informed about what is proposed and how they can provide input. If such translations were not provided, we hereby request a notice and underlining documents immediately be made available in other relevant languages spoken in the community.

Also, we invite you/Planning Department to make a presentation about this project and how the public can be involved at the next meeting of the Bayview Hunters Point Environmental Justice Response Task Force, Wednesday, June 15th at 2 pm. Please let us know if you or someone from the department can do this.

Thanks,  
Bradley Angel  
Greenaction for Health and Environmental Justice



June 30, 2016

Brett Bollinger  
San Francisco Planning Department  
Environmental Planning Division  
1650 Mission Street Suite 400  
San Francisco, CA 94103

**Greenaction for Health and Environmental Justice Scoping Comments on the Proposed India Basin Mixed Use Project**

On behalf of our members and constituents in Bayview Hunters Point, San Francisco, we submit the following Scoping comments regarding concerns with the Initial Study and other issues that must be considered and evaluated in the preparation of an Environmental Impact Report for the proposed India Basin Mixed Use Project.

Greenaction For Health and Environmental Justice is a multiracial grassroots organization that works with low-income and working class urban, rural, and indigenous communities to fight environmental racism and build a clean, healthy and just future for all. Greenaction has been involved in environmental health and justice advocacy in Bayview Hunters Point since we were founded in 1997. This low-income community of color continues to be negatively and disproportionately impacted by pollution, gentrification, health disparities, and other forms of environmental, social, economic injustice.

**Planning Department Improperly Rejected Request for Extension of Public Comment Period and Translation of Public Notice and Key Documents:**

On June 7, 2016, Greenaction emailed the Planning Department with the following request:  
On behalf of our members and constituents in Bayview Hunters Point impacted by the proposed India Basin Mixed-Use Project, we request the Planning Department provide an extended public comment period beyond July 1, 2016. Due to the complexity of the many issues including many potential significant impacts already identified, and the need to ensure meaningful civic engagement in this process, we request that the comment period be extended to July 30, 2016. In addition, can you tell us if the notice and/or environmental documents were prepared and provided in any language other than English, as it is vital that all members of the community are informed about what is proposed and how they can provide input. If such translations were not provided, we hereby request a notice and underlining documents immediately be made available in other relevant languages spoken in the community.

On June 9, 2016, the Planning Department responded via email and denied our requests. While the Planning Department response stated they would accept "late" comments, that is not adequate as there is no legal guarantee that comments submitted after the official comment period ends would be part of the administrative record.

We believe the denial of our request for a modest extension of the public comment period and for publishing a notice and key documents in languages spoken in the community is improper and effectively denies many members of the community their lawful and civil rights to meaningful participation in a public process on a proposed project that very well could have a significant and negative impact on their well-being, environment and community.

As a result of the Planning Department's rejection of our requests, non-English speaking residents will likely never know about this Scoping Process as they cannot read the Notice if by some chance they receive it. Even if non-English speaking residents did receive the notice, which is solely in English, they would not be able to provide meaningful comments as they cannot read or understand the Notice or the underlying documents such as the Initial Study.

### **Environmental Review Topics:**

The Initial Study prepared in 2014 accurately identified a number of issues and potential impacts from the proposed project that would have significant impacts. Full analysis of these significant impacts must be done, and we believe many of these significant impacts may not be able to be mitigated.

The Initial Study incorrectly and improperly concluded that there were certain environmental review topics that would not be addressed in an EIR. These include: land use and land planning, aesthetics, population and housing, greenhouse gas emissions, geology and soils, mineral/energy resources, agriculture and forest resources. Some of these will be explained in more detail below. The study states that

All items in the Initial Study Checklist that have been checked "Less than Significant Impact," "No Impact" or "Not Applicable" indicate that, upon evaluation, staff has determined that the proposed project could not have a significant adverse environmental effect relating to that topic... the conclusions regarding potentially significant adverse environmental effects are based upon field observation, staff experience and expertise on similar projects, and/or standard reference material available within the Planning Department.

Greenaction strongly disagrees with the conclusion in the Planning Department's Initial Study to exclude many of the above mentioned issues from evaluation in the EIR. We base this assertion due to two factors:

(1) We assert that this project's potential impact on land use and land planning, aesthetics, population and housing and greenhouse gas emissions in Bayview Hunters Point will indeed be significant; and

(2) Even if these issues individually were to be evaluated in an EIR and determined to be "less than significant," the cumulative, combined impact of these issues is likely quite significant and thus must be considered individually and cumulatively in the EIR.

### **Compliance with Civil Rights Laws:**

As the City and County of San Francisco receives federal and state funding, it is subject to and must comply with state and federal civil rights laws (California Government Code 11135 and Title VI of the United States Civil Rights Act). The EIR for this project must evaluate all potential significant impacts that would have a negative discriminatory and disparate impact on people of color. As this project is proposed for Bayview Hunters Point, and as it would have significant impacts that may not be able to be mitigated, an analysis of whether this project would have a discriminatory and disparate

impact on people of color and thus violate the civil rights of people of color residents is required.

**Hazardous Waste and Toxic Contamination in and next to the Project Area:**

The proposed project site contains toxic contamination from prior industrial activities in the area. The project site is also next to the federal Superfund/National Priorities List site at the Hunters Point Shipyard which is contaminated with radioactive and toxic waste.

Project proponents have acknowledged that comprehensive testing has not been completed to assess the full extent of contamination, and have stated to Greenaction that the plan for any remediation or cleanup would be made after the design for the development is made. This is an enormous concern and threatens the accuracy and integrity of the EIR process.

An EIR cannot be prepared, meaningful comments cannot be made, and an analysis of potentially significant impacts cannot likely not be accurate without knowing the extent of contamination at the site and plans for remediating and/or cleaning up the contamination. The EIR must additionally evaluate the potential impact of the Navy's plan to leave large amounts of radioactive and toxic waste at the adjacent Shipyard Superfund Site that is threatened by sea level rise, as this could have a negative impact on the environment and health of people living and working at the India Basin development site.

If an accurate assessment of the contamination at the site is not conducted, and an adequate and health-protective cleanup plan not approved prior to the EIR process, then the EIR clearly must analyze – and conclude – that the India Basin project would have a significant negative impact that cannot be mitigated if toxic contamination at and next to the site is not fully cleaned up.

A plan for a full cleanup must be made before the design starts so that the design can be made around the areas that need cleanup. If the design for the development is done as currently planned, it will be difficult to clean up certain areas and impossible to evaluate the full potential impacts of the contamination in an EIR process.

The only way to mitigate the presence of toxic contamination is to safely and completely remove this contamination. The health and safety of Bayview Hunters Point residents must be fully protected in all stages of this project.

**Sea Level Rise:**

Sea level rise was only mentioned once in the entire Initial Study - in the "Hydrology and Water Quality" Section. The study stated that the site "could" experience "climate-change-related sea level rise." This conclusion is factually incorrect, as there is no doubt based on all the latest scientific evidence and projections, that the site will experience potentially severe climate change sea level rise impacts.

As the proposed project is located directly on the waterfront, this issue needs to be comprehensively and thoroughly evaluated using the most recent scientific projections. This is especially a concern as there is toxic contamination at the site near the waterfront.

The initial study used outdated information on sea level rise. Since that report was written, the predictions for how much sea level will rise in San Francisco have gone up dramatically. Therefore the



current estimates of projected sea level rise must be used in the EIR and accurate assessment based on the latest science must be thoroughly evaluated in the EIR.

The state government's California Climate Action Team now estimates that sea level will rise an additional 10 to 17 inches by 2050 and 31 to 69 inches by 2100 or more. San Francisco Department of the Environment projects sea level increasing by 11 to 19 inches by 2050, and 30 to 55 inches by 2100.

In March 2016, the City and County of San Francisco released a "San Francisco Sea Level Rise Action Plan," which will provide a foundation for a citywide sea level rise adaption plan (the expected completion of this report is 2018). The SLR Action Plan is based on important climate science and provides a sobering portrait of many of the likely effects of sea level rise on the San Francisco waterfront. For example, the report notes that, by the year 2100, sea level for San Francisco could rise by 66 inches. In the event of extreme tides or coastal storms, sea level could reach 108 inches, or 9 feet. Coastal hazards that increase with sea level rise include temporary coastal flooding, urban flooding (caused by rainfall runoff, which would impede the city's combined sewage and storm water systems), shoreline erosion, daily tidal inundation and regular King Tide floods, and extreme storms.

The EIR must thus thoroughly evaluate all the potential impacts of what clearly and ominously may be massive sea level rise, storm surges and inundation of the project site.

#### Greenhouse Gases:

The Initial Study incorrectly concluded that greenhouse gases will not be assessed as an environmental factor in the EIR. In 2016, in an area where this is already a serious pollution problem, greenhouse gasses should not be allowed to be taken off the list of necessary environmental review topics as there is a serious potential for a significant impact from greenhouse gas emissions.

We thus challenge as factually incorrect the Initial Study's conclusion that the proposed project would be consistent with the San Francisco Reduction Strategy and would not generate GHG emissions in a manner that would have a significant impact on the environment. The potential impact of greenhouse gas emissions must therefore be included in the environmental review topics that will be included in the EIR.

The Initial Study found that there could be a "potentially significant impact" for "Cause substantial additional vehicle miles traveled" under the Transportation section. This directly impacts and would increase greenhouse gas emissions. In addition, construction equipment working on this massive project will likely result in significant GHG emissions.

#### Air Quality:

The Initial Study found that there could be potentially significant impacts from violation of air quality standards, cumulatively considerable net increase of any criteria pollutant, odors, conflict with air quality plan."

Impacts on neighborhood air quality must be evaluated and the existing in pollution must be taken into account when air quality is considered in the EIR. As residents already suffer high rates of asthma and other respiratory illnesses, air quality is an enormous concern that must be accurately and cumulatively evaluated.

### **Cumulative Impacts of Pollution and Health, Socio-Economic Factors:**

The Bay Area Air Quality Management District has identified Bayview Hunters Point as a “CARE” community that is disproportionately and negatively impacted by pollution. The fact that that Bayview Hunters Point is significantly and cumulatively impacted by historic and current pollution – including mobile and stationary sources – is also recognized by the wide range of local, regional, state and federal regulatory agencies.

The EIR must include a thorough cumulative impact analysis that evaluates all the potential environmental, health, and socio-economic impacts of the India Basin project combined with existing impacts in the community historically and today.

### **Land Use, Gentrification, and Affordable Housing:**

On page 51 of the Initial Study, under Land Use, section LU-3, it is stated that “the proposed project and variant would not have a substantial adverse impact on the existing character of the vicinity. (Less than Significant)” (51). Greenaction strongly disagrees with this assessment.

Bayview Hunters Point is a community under attack by developers who are gentrifying the neighborhood and changing its character from a predominantly people of color community to one with thousands of high-end condos, townhouses and homes that most residents could never afford.

This proposed development has the strong potential to further gentrify the area by creating a development with only minimal “affordable housing” and with most residential units priced too high for many current residents to afford. By building developments that most residents of Bayview Hunters Point cannot afford, the culture of the neighborhood is changed, the price of housing and commercial rents in the neighborhood goes up, and therefore forces out people who are already longtime residents of the community.

The EIR should consider, and conclude, that the current plans for the project are inadequate to prevent further gentrification of the neighborhood. The only way to avoid and mitigate this significant impact is that the development needs more affordable housing for the current residents living in Bayview and Hunters Point. When the term “affordable housing” is used, we are referring to affordable housing that is based on the actual incomes of residents currently living in the area. Currently, at least 149 affordable units must be built in the development (or a fee can be paid to avoid building them at all). At a minimum, at least half of the total units proposed to be built should be real affordable housing and accessible to current residents of Bayview Hunters Point.

With a massive increase in higher-end residential development, the neighborhood will also change in other ways including higher commercial rents resulting in evictions of the many community-owned small businesses along 3<sup>rd</sup> Street. BVHP is already experiencing dramatic rent increases and changes in demographics, and the EIR must evaluate in depth the potential impacts on housing and the overall environment of the community.

The project proponents should also work in a broad and representative community process prior to finalizing their project plan to reach a Community Benefits Agreement that will address and prevent all negative impacts that might arise from their project – and any such agreement should be reviewed in depth in the EIR.

**Bus Routes:**

This project would change existing bus routes in the neighborhood that would affect community members that live close to India Basin and those that live farther away. We do not want the community to be inconvenienced by changing bus routes. A full assessment of the effects of changing these specific bus routes should be analyzed in the EIR.

Please respond to these comments in writing.

Submitted by,



Bradley Angel, Executive Director

Claire Laurentine, Intern

Marie Harrison, Bayview Hunters Point Community Organizer

Etecia Brown, Bayview Hunters Point Community Organizer

**Greenaction for Health and Environmental Justice**

559 Ellis Street, San Francisco, CA 94109

greenaction@greenaction.org

-----Original Message-----

From: Bradley Angel [<mailto:bradley@greenaction.org>]

Sent: Tuesday, June 07, 2016 12:22 PM

To: Bollinger, Brett (CPC)

Cc: Marie Harrison; [etecia@greenaction.org](mailto:etecia@greenaction.org)

Subject: Request to extend public comment period on scoping for Indian Basin Mixed-Use Project, and request for the Planning Dept. to provide short presentation at June 15th BVHP EJ Task Force meeting

On behalf of our members and constituents in Bayview Hunters Point impacted by the proposed India Basin Mixed-Use Project, we request the Planning Department provide an extended public comment period beyond July 1, 2016. Due to the complexity of the many issues including many potential significant impacts already identified, and the need to ensure meaningful civic engagement in this process, we request that the comment period be extended to July 30, 2016.

In addition, can you tell us if the notice and/or environmental documents were prepared and provided in any language other than English, as it is vital that all members of the community are informed about what is proposed and how they can provide input. If such translations were not provided, we hereby request a notice and underlining documents immediately be made available in other relevant languages spoken in the community.

Also, we invite you/Planning Department to make a presentation about this project and how the public can be involved at the next meeting of the Bayview Hunters Point Environmental Justice Response Task Force, Wednesday, June 15th at 2 pm. Please let us know if you or someone from the department can do this.

Thanks,  
Bradley Angel  
Greenaction for Health and Environmental Justice

**Subject:** RE: Request to extend public comment period on scoping for Indian Basin Mixed-Use Project, and request for the Planning Dept. to provide short presentation at June 15th BVHP EJ Task Force meeting

**From:** "Bollinger, Brett (CPC)" <brett.bollinger@sfgov.org>

**Date:** 6/9/2016 7:52 AM

**To:** Bradley Angel <bradley@greenaction.org>

**CC:** Marie Harrison <marieH@greenaction.org>, "etecia@greenaction.org" <etecia@greenaction.org>

Thank you for your interest in the project. To be clear about the project notice that was sent out on 6/1/2016 and the overall environmental review process, this was a Notice of Preparation (NOP) of an Environmental Impact Report under the California Environmental Quality Act (CEQA). Although an Initial Study (IS) is attached to the NOP ([http://sfmea.sfplanning.org/2014-002541ENV India%20Basin NOP-IS.pdf](http://sfmea.sfplanning.org/2014-002541ENV%20India%20Basin%20NOP-IS.pdf)) with some environmental topics focused out, the more complex environmental topics (transportation, air quality, noise, biological resources, water/wastewater, etc.) analysis has yet to be published. The technical analysis for the more complex topics will be published as part of the Draft Environmental Impact Report (DEIR), which will include a 60-day public comment period and a public comment hearing in front of the SF Planning Commission within the 60-day comment period. We expect to publish the DEIR in December 2016. Only the Environmental Review Officer (ERO) or the Planning Commission can recommend extension of the comment period. In discussion with the ERO, we don't believe an extension of the scoping comment period is justified in this case. However, we will accept late scoping comment letters since we do not expect the DEIR to be published until late 2016.

Regarding translation services, we can provide that service at the Planning Commission DEIR public hearing if requested. We can also work with individuals over the phone to answer questions regarding the environmental review process and analysis we publish. We do not have the resources to translate every page of analysis into multiple languages. Any individuals that need translation services can go through the Mayor's Office of Disability: <http://sfgov.org/mod/language-access-ordinance>

On Thursday June 16th at 5pm we will be holding a NOP Public Scoping Meeting to receive comments on the NOP/IS that was published on 6/1/2016. At this hearing the public can also comment on environmental topics that should be addressed in the DEIR. I suggest that you contact the project sponsor to request a presentation of the proposed project at your June 15th meeting. My role with this project involves only the CEQA compliance portion for which we are holding a public hearing on 6/16/2016. I can also answer questions via email or over the phone regarding the CEQA process for the project.

Please don't hesitate to contact me with any additional questions, clarifications or comments.

Best,

Brett Bollinger  
San Francisco Planning Department  
Environmental Planning Division  
1650 Mission Street Suite 400  
San Francisco, CA 94103

# **GREENACTION**

*For Health & Environmental Justice*

May 23, 2017

Michael Li  
San Francisco Planning Department/Environmental Planning Division  
1650 Mission Street Suite 400  
San Francisco, CA 94103

RE: India Basin Mixed Use Project Draft EIR

Dear Mr. Li,

On behalf of our many members and constituents in Bayview Hunters Point, Greenaction for Health and Environmental Justice is writing to raise several serious concerns about the India Basin Mixed Use Project. We call on your agency to immediately remedy serious defects in the Scoping and DEIR process, including the refusal of your agency to provide meaningful opportunities for public participation to non-English speaking residents.

On June 7, 2016, Greenaction wrote to the Planning Department about several issues related to the Scoping and EIR processes, including the English-only notices associated with the environmental review process. We asked "if the notice and/or environmental documents were prepared and provided in any language other than English, as it is vital that all members of the community are informed about what is proposed and how they can provide input. If such translations were not provided, we hereby request a notice and underlining documents immediately be made available in other relevant languages spoken in the community."

On June 9, 2016, Mr. Bollinger responded to our June 7<sup>th</sup> communication, rejecting our request for translation. Mr. Bollinger stated in relevant part:

Regarding translation services, we can provide that service at the Planning Commission DEIR public hearing if requested. We can also work with individuals over the phone to answers questions regarding the environmental review process and analysis we publish. We do not have the resources to translate every page of analysis into multiple languages. Any individuals that need translation services can go through the Mayor's Office of Disability: <http://sfgov.org/mod/language-access-ordinance>

The refusal of the Planning Department to translate the notice and any part of the associated environmental review documents, despite the fact that the affected community has many non-English speaking residents (particularly Chinese and Spanish-speaking), is unacceptable as it denies them their lawful right to meaningful participation in public processes including the Scoping and EIR process. The Planning Department clearly has the resources, as well as the legal and moral responsibility, to translate the public notices and at least translate an extended executive summary of the Scoping/Notice of Preparation, DEIR, EIR and other key documents.

Furthermore, it is insulting to San Francisco residents who are non-English speaking or limited English speaking for the Planning Department to respond by saying: ***"Any individuals that need translation services can go through the Mayor's Office of Disability..."***

It is ironic that the Planning Department in the Sanctuary City of San Francisco apparently considers **speaking a language other than English as a disability. It is a human right.**

We are also concerned that the Planning Department apparently plans on releasing the Draft Environmental Impact Report any day. In addition to the language access issues described above, we have serious concerns that the DEIR will be inadequate due to the lack of information and analysis about the extent of contamination at the project site.

We understand that some testing for toxic contamination has been conducted. We also understand that test results were not considered in development of the DEIR as these test results are just being analyzed now. We further are concerned that no testing was conducted for possible radioactive contamination, despite the clearly known fact that the adjacent Hunters Point Naval Shipyard Superfund site is heavily contaminated with radioactive waste from decades of military and industrial polluting activities. The lack of data immensely relevant to a DEIR undermines that adequacy of the DEIR and prevents the public from being able to make informed comments – denying us and others our lawful right to meaningful civic engagement in the process.

We therefore call on the San Francisco Planning Department to take the following actions to ensure that the environmental review process is legitimate, ensures full meaningful civic engagement opportunities for all people including people of color and non-English speaking residents, and complies with state and federal civil rights laws:

- (1) Start the process over, and do it properly, starting with the Scoping/Notice of Preparation;
- (2) Translate all notices associated with the project into languages spoken by Bayview Hunters Point residents, including Spanish and Chinese;
- (3) Translate all environmental review documents, or at a minimum produce and translate extended Executive Summaries of all documents; and
- (4) Require that the entire site be thoroughly tested for hazardous and radioactive contamination, with test results analyzed and made publicly available, prior to the creation of a DEIR document.

We request a meeting with your department in the next week to discuss these urgent matters.

Sincerely,



Bradley Angel, Executive Director

cc Nicole Avril, Recreation and Parks Department  
Bayview Hunters Point Mothers and Fathers Committee  
Bayview Hunters Point Environmental Justice Response Task Force  
Department of Toxic Substances Control  
APRI  
PODER

**Subject:** India Basin EIR

**From:** "Navarrete, Joy (CPC)" <joy.navarrete@sfgov.org>

**Date:** 8/29/2017 6:19 PM

**To:** Bradley Angel <bradley@greenaction.org>

**CC:** Brian Butler <brian@greenaction.org>, Victoria Lehman <victoria@bldsf.com>, "Taupier, Anne (ECN)" <anne.taupier@sfgov.org>, "sheridan@greenaction.org" <sheridan@greenaction.org>, Michael Yarne <michael@bldsf.com>, "Gibson, Lisa (CPC)" <lisa.gibson@sfgov.org>, "Simi, Gina (CPC)" <gina.simi@sfgov.org>, "Avril, Nicole (REC)" <nicole.avril@sfgov.org>, "Li, Michael (CPC)" <michael.j.li@sfgov.org>, "Warren, Elaine (CAT)" <elaine.warren@sfgov.org>, ""Murphy, Mary G. (MGMurphy@gibsondunn.com)"" <MGMurphy@gibsondunn.com>

Dear Mr. Angel,

Thank you again for your patience. We sincerely apologize for the delay.

**Language Translation:**

Thank you for your request for translation. We do acknowledge your prior request for translation of the NOP back in June 2016 and had translated the NOP into Spanish shortly thereafter (attached). However, based on our review of correspondence during that time, we discovered that it was not transmitted to you. This appears to have been an unfortunate oversight. I sincerely apologize. That being said, there was no procedural oversight that would require recirculation of the NOP/IS as the Planning Department satisfied its requirements under CEQA.

Moving forward, we will translate the Notice of Availability of the Draft EIR into Spanish, Chinese, and Tagalog. Please send us a list of mailing and/or email addresses for each of the interested parties requesting translation under each respective language so that we can ensure the mailing is transmitted properly. We will also make these translated notices available on our webpage - <http://sf-planning.org/environmental-impact-reports-negative-declarations>

**Further Comment Opportunity:**

It is not too late for public input on the India Basin EIR or the Project. As you know, the NOP/IS scoping period has passed and we are now preparing to publish the Draft EIR. The Draft EIR will contain an up-to-date project description and will address the comments we received during the NOP/IS scoping period. We have also taken Greenaction's May 2017 letter as an NOP/Initial Study comment, which will also be addressed in the Draft EIR. There will be a minimum 45-day Draft EIR comment period within which comments on the Draft EIR can be submitted either in writing or in person at the public hearing before the Planning Commission. Then a Responses to Comments document will be prepared and the EIR will once again go before the Planning Commission for certification. This makes two more opportunities for public comments on the EIR moving forward – Draft EIR comment period and Final EIR certification. In addition, public hearings on the approvals for the project would be scheduled before several decision-makers including, but not limited to, the Planning Commission, Recreation and Parks Commission, and Board of Supervisors. Hence, more public participation opportunities forthcoming.

While we welcome further input through the EIR process, please note that the opportunity for verbal comments will be at the Planning Commission Draft EIR hearing. The Planning Department will not be hosting any other DEIR workshop events. As we stated yesterday, the Build Inc. letter that you received on August 24,



2017 did not reflect the Planning Department's concurrence in any way. We regret any confusion this has caused and have hopefully clarified the CEQA process. Whatever the project sponsors propose to implement would be independent of the Planning Department and CEQA requirements.

Please feel free to contact me or the Environmental Review Officer Lisa Gibson (cc'ed above) if you have any questions.

Thanks,  
Joy

**Joy Navarrete. Senior Environmental Planner**  
**San Francisco Planning Department**  
**1650 Mission Street, Suite 400**  
**San Francisco, CA 94103**  
**P. 415-575-9040 F. 415-558-6409**  
**[www.sfplanning.org](http://www.sfplanning.org)**

-- Attachments: -----

Spanish\_India Basin EIR NOP.pdf

210 KB



## SAN FRANCISCO PLANNING DEPARTMENT

---

September 8, 2017

Bradley Angel, Executive Director  
Greenaction  
559 Ellis Street  
San Francisco, CA 94109

Re: Case No. 2014-002541ENV  
India Basin Mixed-use Project EIR Language Access

Dear Mr. Angel,

I am writing in response to your email message dated 8/31/17 to Joy Navarrete regarding language access in the India Basin EIR process. Because the Planning Department takes compliance with the Language Access Ordinance and the California Environmental Quality Act (CEQA) very seriously, I have reviewed the correspondence between you and our department on this matter and met with staff to understand the history of communications and context for your concerns.

I understand that you remain unsatisfied with the steps taken by the Planning Department regarding translation and language access on this project. Given your experience and your organization's objectives, I understand your perspective.

We have heard your concerns and are committed to translating the Notice of Availability of the Draft EIR into Spanish, Chinese, and Tagalog. BUILD has proposed to translate the Draft EIR Executive Summary into other languages, upon request by Greenaction. Non-English speaking people may request language access services at the Planning Commission hearing on the Draft EIR, and their verbal comments will be responded to in writing in the Responses to Comments document. Language access services will also be available at the EIR certification hearing. These steps will provide ample opportunity for meaningful input and participation by non-English speaking people in the EIR process moving forward.

We acknowledge that the department did not provide a translated Notice of Availability of the Notice of Preparation of an EIR, an oversight that we deeply regret. At the same time, we respectfully disagree with your proposed remedy that the department restart the CEQA process again, with language noticing as you describe. We believe that a reasonable response is that the department learn from this oversight and commit to ensuring that it does not happen again.

Toward that end, our managers will conduct a Language Access Ordinance refresher training session for Environmental Planning staff this month. In that training, we will review the

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department's "Language Access Ordinance Standard Operating Procedures for Employees." The training will stress the importance of providing equal access to information to those who identify themselves as Limited English Speaking individuals, and we will use this project to illustrate how valued this ordinance is by our stakeholders. Finally, we will review our internal procedures to confirm that project environmental coordinators and their supervisors adhere to these requirements in their work.

I recognize that these steps may not fully satisfy your concerns. They do, however, reflect the actions that we sincerely feel are reasonable and appropriate to take under the circumstances. We look forward to your further input and participation in the India Basin EIR process. I am available at (415) 575-9032 or [lisa.gibson@sfgov.org](mailto:lisa.gibson@sfgov.org) should you have any questions.

Sincerely,



Lisa Gibson  
Environmental Review Officer  
Director of Environmental Planning

cc Joy Navarrete, Planning Department  
Michael Li, Planning Department  
Gina Simi, Planning Department  
Michael Yarne, BUILD

# State of California Confirms Bayview Hunters Point at Risk from Pollution

*For decades residents have voiced concern about pollution. California finally confirms BVHP as one of the communities most vulnerable to pollution in the State.*

## What does this mean for Bayview Hunters Point?

A community with a high percentage is experiencing a higher pollution burden and vulnerability than a community with a lower percentage in California.

Bayview Hunters Point rates in the 90% percentile on CalEnviroScreen.

***This means that BVHP has a higher pollution burden than 90% of California.***



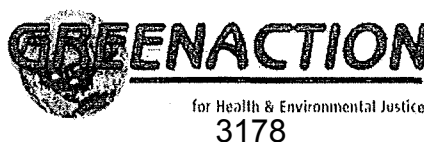
## CalEnviroScreen results for Bayview Hunters Point:

Environmental Factors	Percentage
Diesel Particulate Matter	99%
Groundwater Threats	98%
Hazardous Waste	86%
Health Factors	Percentage
Asthma	98%
Low Birth Weight	99%
Cardiovascular	69%
Population Characteristics	Percentage
Poverty	87%
Unemployment	84%
Housing	91%

**How to learn more and access the tool:**  
 Website: <http://oehha.ca.gov/calenviroscreen>  
 Email: [CalEnviroScreen@oehha.ca.gov](mailto:CalEnviroScreen@oehha.ca.gov)

The CalEnviroScreen 3.0 report (In English and Spanish), maps and additional data:  
<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>

Contact us for more information:  
 315 Sutter Street, 2<sup>nd</sup> Floor  
 San Francisco, CA 94108  
 (415) 447-3904  
[www.greenaction.org](http://www.greenaction.org)  
[greenaction@greenaction.org](mailto:greenaction@greenaction.org)



<http://bvhp-ivan.org>  
 Submit a pollution complaint!  
 Be as detailed as possible! Take a photo!  
 Get alerts from the website  
 Track responses and results from state agencies

# State of California Confirms Bayview Hunters Point at Risk from Pollution

For decades residents have voiced concern about pollution. California finally confirms BVHP as one of the communities most vulnerable to pollution in the State.

## What is CalEnviroScreen 3.0?

CalEnviroScreen 3.0 is a tool made by California Environmental Protection Agency to help identify communities most affected by pollution.

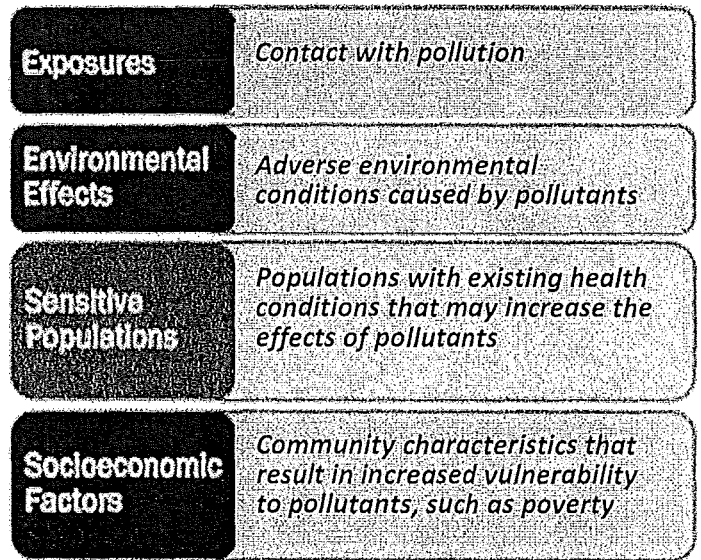
CalEnviroScreen uses the *cumulative impact theory* to compare pollution levels and health risks in communities across California.

## What are Cumulative Impacts?

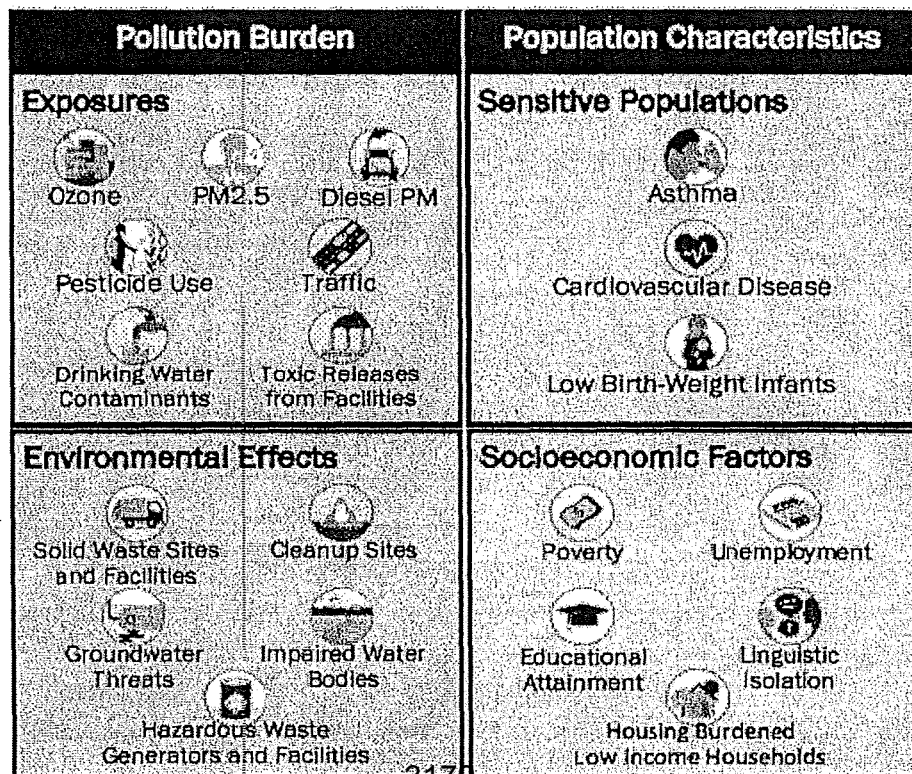
They are the combination of different factors that when added together result in a higher impact.

**Example: pollution + asthma + poverty = cumulative impacts!**  
 $1+1+1+1+1 = \text{too much!}$

CalEnviroScreen measures indicators through these four main groups:



The CalEnviroScreen results are the pollution burden times the population characteristics





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BOARD OF SUPERVISORS  
SAN FRANCISCO

2018 AUG 27 PM 4:55

BY

*ll*

August 27, 2018

**APPEAL FEE WAIVER REQUEST RE:  
GREENACTION FOR HEALTH AND ENVIRONMENTAL JUSTICE APPEAL OF  
PLANNING COMMISSION APPROVAL OF INDIA BASIN MIXED USE PROJECT**

Pursuant to Planning Code Section 350(j)(3) and Ordinance No. 149-16, Section Greenaction for Health and Environmental Justice requests a waiver of filing fees for our appeal of the Planning Commission's approval of the EIR and the India Basin Mixed Use Project. We file this appeal on behalf of our many members and constituents in Bayview Hunters Point whose health, environment, and civil rights will be adversely, disproportionately and significantly impacted by the approval of this project.

Greenaction is a San Francisco-based non-profit organization founded in 1997 and led by grassroots leaders from urban, rural and Indigenous communities which are impacted by pollution, environmental racism, and injustice. We have participated in the project's environmental review and permit process since it began with the Planning Department, submitted written comments starting with the Notice of Preparation/Scoping process, and testified at public hearings held by the Planning Department and Planning Commission on this matter. Due to our extensive participation in the process, and our many members and constituents in the affected community, we have standing to file this appeal and request a fee waiver.

Sincerely,

  
Bradley Angel, Executive Director

Greenaction for Health and Environmental Justice  
315 Sutter Street, 2<sup>nd</sup> floor, San Francisco, CA 94108  
Phone: (415) 447-3904 Fax: (415) 447-3905  
www.greenaction.org greenaction@greenaction.org



2018 AUG 27 PM 4:59

BY ll

## BOARD OF SUPERVISORS APPEAL FEE WAIVER FOR NEIGHBORHOOD ORGANIZATIONS

### APPLICATION

#### Appellant's Information

Name: Bradley Angel  
 Address: 315 Sutter St 2nd floor  
SF 94108  
 Email Address: bradley@greenaction.org  
 Telephone: 415 447 3904 X102

#### Neighborhood Group Organization Information

Name of Organization: Greenaction for Health and Environmental Justice  
 Address: 315 Sutter St 2nd floor  
SF 94108  
 Email Address: greenaction@greenaction.org  
 Telephone: 415 447 -3904

#### Property Information

Project Address: 700 lanes  
 Project Application (PRJ) Record No: \_\_\_\_\_ Building Permit No: \_\_\_\_\_  
 Date of Decision (if any): 7/26/18

#### Required Criteria for Granting Waiver

All must be satisfied; please attach supporting materials.

REQUIRED CRITERIA	YES	NO
The appellant is a member of the stated neighborhood organization and is authorized to file the appeal on behalf of the organization. Authorization may take the form of a letter signed by the President or other officer of the organization.	✓	
The appellant is appealing on behalf of an organization that is registered with the Planning Department and that appears on the Department's current list of neighborhood organizations.	✓	
The appellant is appealing on behalf of an organization that has been in existence at least 24 months prior to the submittal of the fee waiver request. Existence may be established by evidence including that relating to the organization's activities at that time such as meeting minutes, resolutions, publications and rosters.	✓	
The appellant is appealing on behalf of a neighborhood organization that is affected by the project and that is the subject of the appeal.	✓	

#### For Department Use Only

Application received by Planning Department:

By: \_\_\_\_\_ Date: \_\_\_\_\_

#### Submission Checklist:

- APPELLANT AUTHORIZATION   
  CURRENT ORGANIZATION REGISTRATION   
  MINIMUM ORGANIZATION AGE  
 PROJECT IMPACT ON ORGANIZATION  
 WAIVER APPROVED   
  WAIVER DENIED

**GREENACTION FOR HEALTH & ENVIRONMENTAL JUSTICE**  
315 SUTTER ST FL 2  
SAN FRANCISCO, CA 94108

**Bank of America**  
ACH R/T 121000358

**5260**  
11-35/1210 CA  
91292

8/27/2018

PAY TO THE ORDER OF: San Francisco Planning Department

\$ \*\*597.00

Five Hundred Ninety-Seven and 00/100\*\*\*\*\*

DOLLARS

San Francisco Planning Department

  
AUTHORIZED SIGNATURE

MEMO: India Basin Mixed Use Project - Appeal

**GREENACTION FOR HEALTH &**

**ENVIRONMENTAL JUSTICE**

**5260**

San Francisco Planning Department

8/27/2018

India Basin Mixed Use Project - Appeal

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597.00

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BY \_\_\_\_\_  
2018 AUG 27 PM 4:54



**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [president@lincolnuca.edu](mailto:president@lincolnuca.edu); [bradley@greenaction.org](mailto:bradley@greenaction.org); [courtney@bldsf.com](mailto:courtney@bldsf.com); [Avril, Nicole \(REC\)](#)  
**Cc:** [GIVNER, JON \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Li, Michael \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** APPEAL RESPONSE AND BRIEF: Appeal of CEQA Certification of Final Environmental Impact Report - Proposed India Basin Mixed-Use Project - Appeal Hearing on September 25, 2018  
**Date:** Monday, September 17, 2018 4:30:57 PM  
**Attachments:** [image001.png](#)

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Greetings,

Please find linked below appeal responses received by the Office of the Clerk of the Board from the Planning Department and from Steve Castleman of Environmental Law and Justice Clinic, on behalf of Greenaction for Health and Environmental Justice, regarding the Certification of Environmental Impact Report Appeal for the proposed India Basin Mixed-Use Project.

[Planning Appeal Response Memo - September 17, 2018](#)

[Appellant Brief - Greenaction for Health and Environmental Justice - September 17, 2018](#)

**The hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on September 25, 2018.**

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180841](#)

Regards,

**Lisa Lew**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*



**Appeal of Final Environmental Impact Report  
India Basin Mixed-Use Project**

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CA 94103-2479

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**415.558.6409**

Planning  
Information:  
**415.558.6377**

**DATE:** September 17, 2018  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Lisa M. Gibson, Environmental Review Officer – (415) 575-9032  
Joy Navarrete, Principal Environmental Planner – (415) 575-9040  
Michael Li, Senior Environmental Planner – (415) 575-9107  
**RE:** Board File No. 180841, Planning Department Case No. 2014-002541ENV  
Appeal of the Final Environmental Impact Report for the India Basin Mixed-Use  
Project  
**HEARING DATE:** September 25, 2018  
**ATTACHMENTS:** None

---

**PROJECT SPONSOR:** BUILD  
San Francisco Recreation and Park Department  
Supervisor Cohen (legislative sponsor)  
**APPELLANTS:** Mikhail Brodsky on behalf of Archimedes Banya SF and 748 Innes Ave. HOA  
Bradley Angel on behalf of Greenaction for Health & Environmental Justice

---

**INTRODUCTION**

This memorandum and the attached documents are a response to two letters of appeal submitted to the Board of Supervisors (“Board”) regarding the Planning Department’s (“Department”) publication of a Final Environmental Impact Report (“Final EIR”) under the California Environmental Quality Act (“CEQA”) for the India Basin Mixed-Use Project (“Project”). The Final EIR (provided on a compact disc to the Board on September 17, 2018) was certified by the Planning Commission (“Commission”) on July 26, 2018.

The first appeal to the Board was filed by Mikhail Brodsky on behalf of Archimedes Banya SF and 748 Innes Ave. HOA (“Banya”) on August 23, 2018. The second appeal to the Board was filed by Bradley Angel on behalf of Greenaction for Health & Environmental Justice (“Greenaction”) on August 27, 2018. Both appeal letters are part of Board File No.180841 and can be accessed online at <https://sfgov.legistar.com/LegislationDetail.aspx?ID=3646252&GUID=CB4D0848-D2CF-4491-B350-86D5B0105801&Options=ID|Text|&Search=180841>.

The decision before the Board is whether to uphold the Commission’s decision to certify the Final EIR and deny the appeals, or to reverse the Commission’s decision to certify the Final EIR and return the Project to the Department for staff to conduct additional environmental review.

## **PROJECT DESCRIPTION**

The project site, which is approximately 39 acres, is on the northeast side of Innes Avenue between Hunters Point Boulevard and Earl Street. The project site is bounded by Hunters Point Boulevard on the northwest, Innes Avenue on the southwest, Earl Street on the southeast, and San Francisco Bay on the northeast. There are two existing parks, India Basin Open Space and India Basin Shoreline Park, on the project site.

Through a public-private partnership between the San Francisco Recreation and Park Department (“SFRPD”) and the privately owned real estate development company BUILD, the Project would develop approximately 39 acres located along the India Basin shoreline into an integrated network of new public parks, wetlands habitat, and a mixed-use urban village. For the mixed-use urban village that would be developed by BUILD, the EIR analyzed two development scenarios: a residentially-oriented project and a commercially-oriented variant. The residentially-oriented project would include up to 1,575 dwelling units, approximately 209,000 square feet of nonresidential space, and 1,800 parking spaces, and the commercially-oriented variant would include approximately 500 dwelling units, 1,000,000 square feet of commercial space, 50,000 square feet of institutional space, and 1,932 parking spaces.

The SFRPD would partner with BUILD to develop a total of approximately 24.5 acres of public open space on the project site. The existing parks on the project site, India Basin Open Space and India Basin Shoreline Park, would undergo various improvements. India Basin Open Space could include sand dunes, bird islands, brackish lagoons, landscaping, and new wetlands and ponds. India Basin Shoreline Park could include basketball courts, an exercise/cross-training course, barbecue pits, a promenade, event areas, fishing areas, a pier and dock with human-powered boat launch ramp, and interpretive exhibits. In addition, about 0.64 acre of tidal marsh and wetlands would be created along the park’s shoreline. Two new open spaces, at 700 Innes Avenue and 900 Innes Avenue, would also be developed. The 700 Innes Avenue property would feature a new public park known as the Big Green, which would include pedestrian and bicycle pathways, stormwater bioretention ponds, swales, planters, a wet meadow, a children’s play area, a fitness course/loop, benches and pavilions, and small gathering spaces. The 900 Innes Avenue property would be developed as a waterfront park that provides a connection between India Basin Open Space and India Basin Shoreline Park, a connection between existing segments of the Blue Greenway/Bay Trail, and pedestrian and bicycle access to the shoreline. Other potential amenities include piers, picnic areas, educational displays, an ADA-accessible garden path, a concessions building, a welcome center, a pavilion for youth programming, and tidal marsh and wetlands areas.

The following discussion provides a brief overview of the Project’s procedural background and a succinct list of the EIR’s significant and unavoidable impacts and accompanying mitigation measures.

**PROCEDURAL BACKGROUND**

**Table 1: CEQA Procedural Background**, identifies the dates of the major CEQA milestones for the Project’s environmental review.

<b>TABLE 1: CEQA PROCEDURAL BACKGROUND</b>	
<b>CEQA Milestone</b>	<b>Date</b>
Notice of Preparation (“NOP”) of an EIR and Initial Study Published	June 1, 2016
<i>NOP/Initial Study Public Review Period</i>	June 1, 2016 to July 1, 2016 (30 days)
<i>Public Scoping Meeting</i>	June 16, 2016
Draft EIR Published	September 13, 2017
<i>Draft EIR Public Review Period</i>	September 14, 2017 to October 30, 2017 (47 days)
<i>Public Hearing on Draft EIR</i>	October 19, 2017
Responses to Comments Published	July 11, 2018
Certification of the Final EIR	July 26, 2018

**Significant and Unavoidable Project Impacts and Mitigation Measures**

**Table 2. Significant and Unavoidable Impacts and Mitigation Measures**, provides an abbreviated list of the significant and unavoidable impacts and accompanying mitigation measures identified in the EIR. All other impacts would be either less than significant or can be reduced to less-than-significant levels with implementation of mitigation measures identified in the EIR.

<b>TABLE 2. SIGNIFICANT AND UNAVOIDABLE IMPACTS AND MITIGATION MEASURES</b>	
<b>Significant and Unavoidable Impacts</b>	<b>Mitigation Measures</b>
<b>Aesthetics</b>	
Impact AE-3: The Project would create a new source of substantial light or glare that would adversely affect day or nighttime views in the area or would substantially affect other people or properties.	M-AE-3: Implement Good Lighting Practices
Impact C-AE-1: The proposed project or variant, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would substantially contribute to cumulative impacts related to aesthetics.	See M-AE-3.
<b>Cultural Resources</b>	
Impact CR-1: Construction of the Project would cause a substantial adverse change in the significance of a historical resource as defined in	M-CR-1a: Prepare and Implement Historic Preservation Plans and Ensure that Rehabilitation Plans Meet Performance Criteria

<b>TABLE 2. SIGNIFICANT AND UNAVOIDABLE IMPACTS AND MITIGATION MEASURES</b>	
CEQA Guidelines Section 15064.5, including those resources listed in Article 10 or Article 11 of the San Francisco Planning Code.	M-CR-1b: Document Historical Resources M-CR-1c: Develop and Implement an Interpretative Plan M-CR-1d: Retain the Boatyard Office Building M-CR-1e: Vibration Protection Plan
Impact CR-2: Construction of the Project would cause a substantial adverse change in the significance of an archeological resource pursuant to CEQA Guidelines Section 15064.5.	M-CR-2a: Undertake an Archeological Testing Program
Impact CR-3: Construction of the Project would disturb human remains, including those interred outside of formal cemeteries.	M-CR-3a: Implement Legally Required Measures in the Event of Inadvertent Discovery of Human Remains
Impact CR-4: Construction of the Project would cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074.	M-CR-4a: Implement Tribal Cultural Resources Interpretive Program
Impact C-CR-1: The Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would substantially contribute to cumulative impacts related to cultural resources.	See M-CR-1a, M-CR-1b, M-CR-2a and M-CR-3a.
<b>Transportation and Circulation</b>	
Impact TR-3: The Project would cause a substantial increase in transit demand that would not be accommodated by adjacent transit capacity, resulting in unacceptable levels of transit service.	M-TR-3P: Implement Transit Capacity Improvements (Proposed Project) M-TR-3V: Implement Transit Capacity Improvements (Variant)
Impact TR-8: Under the variant, passenger loading demand associated with the school during the peak hour of loading activities would not be accommodated within proposed on-site passenger loading facilities or within convenient on-street loading zones, and would create potentially hazardous conditions affecting traffic, transit, bicycles, or pedestrians or significant delays affecting transit.	M-TR-8V: Implement Passenger Loading Strategies for the School (Variant)
Impact C-TR-2: The Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would substantially contribute to significant cumulative impacts related to transportation and circulation for transit delay.	M-C-TR-2: Implement Transit-Only Lanes

<b>TABLE 2. SIGNIFICANT AND UNAVOIDABLE IMPACTS AND MITIGATION MEASURES</b>	
<b>Noise and Vibration</b>	
Impact NO-2: Construction of the Project would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the Project.	M-NO-2a: General Construction Noise Control Measures M-NO-2b: Noise and Vibration Control Measures during Pile Driving
Impact NO-3: Noise from stationary sources associated with operation of the Project would result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the Project.	M-NO-3: Design Future Noise-Generating Uses near Residential Uses to Minimize the Potential for Noise Conflicts
Impact NO-6: The Project would result in exposure of persons to or generate excessive groundborne vibration.	M-NO-6: Implement Vibration Mitigation Measure for Pile Driving
Impact C-NO-1: The Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would substantially contribute to cumulative impacts related to noise.	No feasible mitigation measures are available.
<b>Air Quality</b>	
Impact AQ-1: The Project would generate emissions of criteria pollutants and precursors during construction, operations, and overlapping construction and operational activities that could violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria pollutants.	M-AQ-1a: Minimize Off-Road Construction Equipment Emissions M-AQ-1b: Minimize On-Road Construction Equipment Emissions M-AQ-1c: Utilize Best Available Control Technology for In-Water Construction Equipment M-AQ-1d: Offset Emissions for Construction and Operational Ozone Precursor (NOx and ROG) Emissions M-AQ-1e: Implement Best Available Control Technology for Operational Diesel Generators M-AQ-1f: Prepare and Implement Transportation Demand Management
Impact AQ-2: The Project would generate construction-related and operational emissions of criteria pollutants and precursors that could conflict with or obstruct implementation of the applicable air quality plan.	See M-AQ-1a through M-AQ-1f.
Impact AQ-3: The Project would generate emissions that could expose sensitive receptors to substantial pollutant concentrations.	See M-AQ-1a through M-AQ-1f.

<b>TABLE 2. SIGNIFICANT AND UNAVOIDABLE IMPACTS AND MITIGATION MEASURES</b>	
Impact AQ-4: The proposed project or variant would not generate emissions that create objectionable odors affecting a substantial number of people.	See M-AQ-1a through M-AQ-1f.
Impact C-AQ-1: The proposed project or variant, in combination with past, present, and reasonably foreseeable future development in the project area, would contribute to cumulative regional air quality impacts.	See M-AQ-1a through M-AQ-1f.
Impact C-AQ-2: The proposed project or variant, in combination with past, present, and reasonably foreseeable future development in the project area, would contribute to cumulative health risk impacts on sensitive receptors.	See M-AQ-1a through M-AQ-1f.
<b>Wind</b>	
Impact WI-1: The Project would alter wind in a manner that substantially affects public areas or outdoor recreation facilities.	M-WI-1a: Wind Impact Analysis and Mitigation for Buildings 100 Feet or Greater in Height During Partial Buildout M-WI-1b: Temporary Wind Reduction Measures during Construction M-WI-1c: Reduce Effects of Ground-Level Hazardous Winds through Ongoing Review
<b>Recreation</b>	
Impact RE-2: The Project would include recreational facilities, the construction of which would cause significant environmental effects but would not require the construction or expansion of other recreational facilities that might have an adverse effect on the environment.	See mitigation measures in EIR Section 3.5, Transportation and Circulation; Section 3.6, Noise; Section 3.7, Air Quality; Section 3.14, Biological Resources; and Section 3.15, Hydrology and Water Quality.
<b>Utilities and Service Systems</b>	
Impact UT-2: The Project would require or result in the construction of new water, wastewater, or stormwater drainage treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.	See mitigation measures listed in EIR Section 3.5, Transportation and Circulation; Section 3.6, Noise; and Section 3.7, Air Quality.
<b>Biological Resources</b>	
Impact BI-1: The Project would have an adverse effect, either directly or through habitat	M-BI-1a: Prepare and Implement a Hydroacoustic Monitoring Program for Special-Status Fish and

<b>TABLE 2. SIGNIFICANT AND UNAVOIDABLE IMPACTS AND MITIGATION MEASURES</b>	
modifications, on species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.	<p>Marine Mammals</p> <p>M-BI-1b: Implement Avoidance and Minimization Measures for Special-Status Species</p> <p>M-BI-1c: Prepare and Implement a Vegetation Restoration Plan and Compensatory Mitigation</p> <p>M-BI-1d: Avoid Ridgway’s Rail Habitat During the Nesting Season</p> <p>M-BI-1e: Avoid Nests during Bird Nesting Season</p> <p>M-HY-1a: Monitor Turbidity during Construction</p> <p>M-HY-1b: Implement Pile Removal Best Management Practices</p>
Impact BI-2: The Project would have an adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS.	See M-BI-1c.
Impact BI-3: The Project would have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.	See M-BI-1c, M-HY-1a, and M-HY-1b.
Impact BI-4: The proposed project or variant would interfere with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	See M-BI-1a and M-BI-1d.
<b>Hydrology and Water Quality</b>	
Impact HY-1: The Project would violate water quality standards or waste discharge requirements.	<p>M-HY-1a: Monitor Turbidity during Construction</p> <p>M-HY-1b: Implement Pile Removal Best Management Practices</p> <p>M-HY-1c: Use Clamshell Dredges</p>
Impact HY-2: The Project would alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in substantial erosion or siltation or flooding on- or off-site.	See M-HY-1a and M-HY-1b.
Impact HY-3: The Project would create or	See M-HY-1a and M-HY-1b.



<b>TABLE 2. SIGNIFICANT AND UNAVOIDABLE IMPACTS AND MITIGATION MEASURES</b>	
contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, and the project would not otherwise degrade water quality.	
Impact C-HY-1: The Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would substantially contribute to cumulative impacts related to hydrology and water quality.	See M-HY-1a through M-HY-1c.
<b>Hazards and Hazardous Materials</b>	
Impact HZ-1: The Project would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	See M-HY-1b.
Impact HZ-2: The Project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	M-HZ-2a: Prepare and Implement a Site Mitigation Plan for Areas Above the Mean High-Water Line M-HZ-2b: Prepare and Implement a Nearshore Sediment and Materials Management Plan for Areas Below the Mean High-Water Line M-HZ-2c: Prepare and Implement a Remedial Action Plan for the 900 Innes Property
Impact HZ-3: The Project is located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment	See M-HY-1a, M-HY-1b, M-HZ-2a, M-HZ-2b, and M-HZ-2c.
Impact HZ-4: The Project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	See M-HZ-2a through M-HZ-2c.
Impact C-HZ-1: The Project, in combination with past, present, and reasonably foreseeable future projects in the vicinity of the project site, would substantially contribute to cumulative impacts related to hazards and hazardous materials.	See M-HY-1a, M-HY-1b, and HZ-2a through M-HZ-2c.

## **CEQA Findings and Statement of Overriding Considerations**

As described in CEQA Guidelines Section 15093, if the Final EIR identifies significant effects for a proposed project, but the effects are not avoided or reduced to less than significant levels (i.e., significant and unavoidable impacts), a decision-maker that approves the project must find that any such unavoidable significant effects are acceptable due to overriding economic, legal, technological, social, or other policy considerations. This is known as a statement of overriding considerations. In making these findings, the decision-maker must balance the benefits of the proposed project against its unavoidable environmental effects.

The Commission has sole authority to adopt a resolution recommending that the Board approve the Development Agreement, the Design Guidelines, and the legislative amendments (including Planning Code amendments, Zoning Map amendments, and General Plan amendments). The Commission was the decision-maker, under CEQA, that was required to adopt CEQA findings, including a statement of overriding considerations, when it approved the Project (i.e., adopted resolutions recommending that the Board approve the Project). On July 26, 2018, following certification of the Final EIR, the Commission approved the Project and adopted CEQA findings and a statement of overriding considerations as part of its approval action (Planning Commission Motion No. 20248).

## **CEQA GUIDELINES**

The Final EIR has been prepared in accordance with CEQA, the CEQA Guidelines, and local CEQA procedures under Chapter 31 of the San Francisco Administrative Code. The purpose of the Final EIR is to disclose any potential impacts on the physical environment resulting from implementation of the Project and provide an opportunity for public review and comment before decision-makers decide to approve or deny the Project. The EIR is an informational document intended to inform public agency decision-makers and the public of the significant environmental effects of a project proposal, identify possible ways to minimize the significant effects, and describe feasible alternatives to the project to reduce or eliminate those significant effects. Certification of an environmental document does not constitute a project approval of any kind.

## **STANDARDS OF ADEQUACY FOR CERTIFICATION OF AN EIR**

On July 26, 2018, the Commission reviewed and considered the Final EIR at a duly noticed public hearing. The Commission found that the Final EIR reflected the independent judgment and analysis of the City and County of San Francisco. The Commission found that the Final EIR was adequate, accurate and objective, and that the Responses to Comments (RTC) document contained no significant revisions to the Draft EIR. The Commission certified the Final EIR in compliance with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code.

Under Administrative Code Section 31.16(c)(3), the grounds for appeal of an EIR

shall be limited to whether the EIR complies with CEQA, including whether it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct.

The standards for adequacy of an EIR are set forth in CEQA Guidelines Section 15151, which provides:

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

Administrative Code Section 31.16(b)(6) provides that in reviewing a CEQA decision on appeal, the Board “shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions.”

## **PLANNING DEPARTMENT RESPONSES**

Two appeal letters were timely filed concerning certification of the EIR for the Project. The concerns raised in each appeal letter are addressed below. Where multiple appellants raise a similar concern, the response below refers to those concerns in the plural (e.g., “Appellants”). The responses below refer to the appellant in the singular when one appellant raises a concern that the other appellant did not (e.g., “Appellant”).

**Response 1: The Commission’s adoption of CEQA findings and statement of overriding considerations for the Project are not appealable to the Board under CEQA Section 21151(c) or Chapter 31 of the Administrative Code.**

### CEQA Requirement

One Appellant claims to appeal the Commission’s adoption of CEQA findings and statement of overriding considerations on the basis that the Project should not be approved due to its significant and unavoidable air quality impacts. Appellant raises no issues regarding the adequacy of the air quality analysis presented in the EIR. Both Appellants raise concerns related to the Project’s air quality impacts, but these concerns are related to the merits of the Project and not the adequacy or accuracy of the analysis contained in the EIR.

As discussed in Section 3.7, Air Quality, of the Project’s EIR, the air quality analysis was conducted in accordance with guidance and methodologies established by local, regional, state, and federal agencies, including the Bay Area Air Quality Management District (Draft EIR pp.3.7-23 through 3.7-31).

The EIR disclosed that the Project would result in significant impacts and identified six mitigation measures (M-AQ-1a through M-AQ-1f)-that would reduce the Project’s significant impacts to less-than-significant levels (Draft EIR pp. 3.7-35 through 3.7-85).

Regarding the Commission's CEQA findings and statement of overriding considerations, CEQA Section 21151(c) provides:

If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that *certification, approval, or determination* may be appealed to the agency's elected decision-making body, if any (emphasis added).

That is, CEQA provides for appeal to the Board ("the agency's elected decision-making body") of the certification of the EIR by the Commission ("a nonelected decision-making body of a local lead agency"), approval of a negative declaration or mitigated negative declaration, or determination that a project is not subject to CEQA. Section 21151(c) does not provide for appeal of any project approval actions.

Chapter 31 of the Administrative Code establishes the types of environmental review decisions that may be subject to appeal, as well as the grounds for such an appeal. Chapter 31.16(a) establishes that: (1) certification of a Final EIR by the Commission; (2) adoption of a negative declaration by the first decision-making body; and (3) determination by the Department, or any other authorized City department, that a project is exempt from CEQA are the only environmental review decisions that may be appealed to the Board. Chapter 31.16(c)(3) states that

the grounds for appeal of an EIR shall be limited to whether the EIR complies with CEQA, including whether it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Commission's EIR *certification* findings are correct (emphasis added).

Pursuant to CEQA Guidelines Sections 15093(b)–(c),

When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

If an agency makes a statement of overriding considerations, the statement should be included in the record of the *project approval* and should be mentioned in the notice of determination (emphasis added).

### The Commission's Adoption of CEQA Findings and Statement of Overriding Considerations

The Commission's CEQA findings and statement of overriding considerations are not separate environmental determinations subject to appeal under Chapter 31, because they are part of the project approvals, not the environmental review process itself. In fact, the Commission adopts the CEQA findings and statement of overriding considerations subsequent to, not together with, the certification of

the EIR. CEQA Section 21081 provides that “no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant impacts on the environment” unless the agency makes required findings. As this language makes clear, the CEQA findings are required only if the agency decides to approve the project and only after the EIR has been certified. Pursuant to CEQA Guidelines Sections 15093(b)–(c), the Commission’s adoption of CEQA findings and a statement of overriding considerations was legal.

Project approvals are also not environmental review decisions subject to appeal under Chapter 31. However, the Board may adopt, modify, or reject the Commission’s CEQA findings and statement of overriding considerations in connection with any approvals that require action by the Board, such as approval of the Development Agreement, the Design Guidelines, and the legislative amendments (including Planning Code amendments, Zoning Map amendments, and General Plan amendments).

**Response 2: The Department’s publication and distribution of the Notice of Preparation and the Draft EIR complied with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code, did not exclude any limited- or non-English-speaking communities from meaningful participation in the CEQA process, and did not violate civil rights laws.**

#### CEQA Requirement

CEQA Guidelines Section 15201 provides that “public participation is an essential part of the CEQA process” and that “each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency’s activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.”

CEQA Section 21083.1 provides that “courts, consistent with generally accepted rules of statutory interpretation, shall not interpret this division or the state guidelines adopted pursuant to Section 21083 in a manner which imposes procedural or substantive requirements beyond those explicitly stated in this division or in the state guidelines.”

#### Publication and Distribution of the Notice of Preparation and the Draft EIR

One Appellant asserts that the Department refused to translate key notices and key documents during the preparation of the Project’s EIR. This statement is incorrect.

This issue was discussed in Response GC-1 of the RTC document (RTC pp. 4-110 through 4-111). The Department translated the Notice of Preparation of an EIR (NOP) into Spanish at the request of Greenaction. Due to an administrative oversight, the translated NOP was never distributed. When the Department published the Draft EIR, the Department translated the Notice of Availability of the Draft EIR (NOA) into Chinese, Spanish, and Tagalog. In addition, BUILD translated the Executive Summary of the Draft EIR into Chinese and Spanish. These translated documents were posted on the Department’s website (<http://sf-planning.org/environmental-impact-reports-negative-declarations>).

Limited- and non-English-speaking individuals have had meaningful opportunity to participate in the CEQA process and provide comments on the EIR, either in writing or in person during the public scoping meeting on June 19, 2016, the Draft EIR hearing on October 19, 2017, and the Final EIR certification hearing on July 26, 2018. Such individuals will also have other opportunities to comment during additional public hearings on the approvals for the project. Furthermore, individuals can request interpreters be present at any public meetings and hearings if they require them and make such requests to the Department ahead of time. Therefore, the record reflects that limited- and non-English-speaking individuals have been provided opportunities for meaningful involvement in the CEQA process and that no violation of CEQA has occurred.

Translating the NOP and NOA into other languages is not required under CEQA, the CEQA Guidelines, or Chapter 31 of the Administrative Code. Although meaningful public participation is an essential part of the CEQA process, CEQA itself does not require agencies to provide language access services. In addition, CEQA Section 21083.1 prohibits the interpretation of CEQA in any manner that imposes additional procedural or substantive requirements beyond those explicitly stated in CEQA. Imposing language access services as a requirement of CEQA is explicitly prohibited by the statute, because such services are not explicitly required under CEQA.

Appellant further claims that the City's alleged refusal to translate some documents and notices constitutes a violation of state and federal civil rights laws. However, Appellant's generalized claims fail to meet the basic legal standards to establish a viable claim under these laws. It is settled law that in order to prevail on a claim of unlawful discrimination under the Equal Protection Clause and Title VI of the Civil Rights Act of 1964, individuals must show that the alleged discrimination was intentional. The Ninth Circuit has stated that "violations of equal protection and Title VI require similar proofs –plaintiffs must show that actions of the defendants had a discriminatory impact, and that the defendants acted with an intent or purpose to discriminate based on plaintiffs' membership in a protected class." (*Comm. Concerning Cmty. Improvement v. City of Modesto* (9th Cir. 2009) 583 F.3d 690, 702-03.) However, "courts consistently have required more evidence of discriminatory intent than a simple failure of diligence, perception, or persistence in a single case." (*Moua v. City of Chico* (E.D. Cal. 2004) 324 F. Supp. 2d 1132, 1140). Here, the Department's failure to distribute the translated NOP due to an "administrative oversight" is not sufficient to establish the required discriminatory intent.

Similarly, to establish a violation of the California Civil Rights Act based on a claimed denial of language access services, Appellant would have to prove that limited-English proficiency persons were harmed by the failure to translate the NOP. (*Blumhorst v. Jewish Family Servs of LA* (2005) 126 Cal. App. 4th 993, 1002.) Appellant cannot do this, given that the alleged failure to translate was corrected promptly, and all the relevant notices were translated into Chinese, Spanish and Tagalog. In addition, as explained above, BUILD translated the Executive Summary of the Draft EIR into Chinese and Spanish, and all of these translated documents were posted on the Department's website (<http://sf-planning.org/environmental-impact-reports-negative-declarations>). Furthermore, limited-English proficiency persons have had ample opportunity to request interpreters to participate in the multiple hearings provided in the CEQA review process. Given these facts, Appellant cannot seriously claim that anyone was personally harmed by the Department's temporary failure to translate one particular notice.

Meaningful public participation is an essential part of the CEQA process. The City has followed all required guidelines and procedural steps to provide opportunities for meaningful participation to all members of the community, including translating the relevant documents and providing interpreter services. No more is required.

**Response 3: The EIR is adequate, accurate, objective, and sufficient as an informational document pursuant to the requirements under CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code.**

### CEQA Requirement

CEQA defines “substantial evidence” to include “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact” (CEQA Sections 21080(e)(1) and 21082.2(c)). “Substantial evidence” under CEQA “is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment” (CEQA Sections 21080(e)(2) and 21082.2(c)). Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence in the record.

### Analysis in the India Basin EIR

On July 26, 2018, the Commission voted to certify the Project’s Final EIR as compliant with CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code. Appellants contend that the Project’s EIR is inaccurate, inadequate, and/or incomplete. However, Appellants have not provided facts or other substantial evidence necessary to support these claims or to support their argument that the certification of the Final EIR should be overturned. Section 31.16(b)(6) of the Administrative Code requires appellants to provide “facts, evidence and issues” in support of the appeal, and Appellants’ bulleted claims and generalized reference to the record do not meet this requirement. Furthermore, in order for the Board to accept Appellants’ claims and reject the Commission’s Final EIR certification, its findings would need to be supported with substantial evidence in the record.

The appeal letters raise a number of alleged deficiencies in the EIR that Appellants do not explain or support with data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts. The Department is unable to respond to conclusory or speculative statements set forth by Appellants. The responses in this document are a reasonable, good faith effort by the Department to respond to Appellants’ claims, and to describe where the EIR addresses the issues raised in the appeal letters.

The RTC document provides responses to all comments submitted on the Project’s Draft EIR. Other than the claims specifically addressed in this appeal response, Appellants have provided no other support for their claims that the responses are allegedly inadequate. Where Appellants have resubmitted their Draft EIR comment letters without providing information explaining how their comments on the Draft EIR have not been adequately addressed, no further response is required.

The EIR is adequate, complete, and complies with CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code, and Appellants have not met their burden to provide evidence to the contrary.

**Response 4: Implementation of the proposed changes to the Project would not result in new environmental impacts that were not previously disclosed, would not result in environmental impacts that are more severe than those previously disclosed, and would not change any of the EIR's conclusions. Therefore, recirculation of the EIR is not required.**

#### CEQA Requirement

Pursuant to CEQA Guidelines Section 15088.5, recirculation of an EIR is required when “significant new information” is added to the EIR after publication of the Draft EIR but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.

CEQA Guidelines Section 15088.5 further defines “significant new information” that triggers a requirement for recirculation as including, but not limited to, identification of a new significant impact, a substantial increase in the severity of an impact (unless mitigation is adopted to reduce the impact to a less-than-significant level), or identification of a new feasible alternative or mitigation measure that would lessen the environmental impacts of the proposed project that the project sponsor declines to adopt.

#### Analysis in the India Basin EIR

Citing CEQA Guidelines Section 15088.5, one Appellant asserts that the revisions made to the Project after the publication of the Draft EIR (an increase of 335 dwelling units, a decrease of approximately 66,225 gross square feet of commercial space, and the elimination of the proposed school) constitute significant new information that requires recirculation of the EIR. Pursuant to CEQA Guidelines Section 15088.5(a), new information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.

The RTC document included a topic-by-topic analysis of the environmental impacts associated with the proposed changes to the Project (RTC pp. 2-1 through 2-36). Pursuant to the standard articulated in CEQA Guidelines Sections 15088.5(a)(1)–(4), the RTC document concluded that: (1) the proposed changes would not result in a new significant environmental impact; (2) the proposed changes would not increase the severity of an environmental impact; (3) there would be no new feasible Project alternatives or mitigation measures different from those analyzed in the EIR that would lessen the environmental impacts of the Project; and (4) the EIR is adequate and provided an opportunity for meaningful public review and comment. Moreover, no mitigation measures in addition to those previously identified are required to address the environmental impacts of the proposed changes to the Project. Appellant



provides no evidence demonstrating how the EIR's evaluation of the proposed changes to the Project deprives the public of a meaningful opportunity to review and comment upon a substantial adverse environmental effect or a feasible way to mitigate or avoid such an effect that the Project's proponents have declined to implement.

**Response 5: Based on the information contained in the EIR, which included results from environmental testing, the Commission thoroughly considered the presence of hazardous materials on the project site. The Commission's decision to approve the Project was not improper or premature.**

### CEQA Requirement

CEQA Guidelines Section 15121(a) provides that

an EIR is an informational document which will inform public agency decision makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR along with other information which may be presented to the agency.

CEQA Guidelines Section 15121(b) provides that

while information in the EIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the EIR by making findings under Section 15091 and if necessary by making a statement of overriding consideration under Section 15093.

Appendix G of the CEQA Guidelines includes a checklist of environmental topics that should be addressed as part of a project's environmental review. Pursuant to the checklist in Appendix G of the CEQA Guidelines, a project would have a significant impact related to hazards and hazardous materials if it would:

- create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials;
- create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
- emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment; or

- impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

### Analysis in the India Basin EIR

One Appellant asserts that it is improper and premature for the Project to be approved before the BUILD portion of the project site has undergone comprehensive testing for and remediation of hazardous materials.

An EIR is not an approval document. As discussed above, an EIR discloses information about a proposed project so that public agencies and their representatives can make informed decisions. Section 3.16, Hazards and Hazardous Materials, of the Project's EIR (Draft EIR pp. 3.16-1 through 3.16-69) identified applicable regulations related to hazardous materials, disclosed the presence of hazardous materials on the project site, which was ascertained through environmental testing, and identified mitigation measures that would reduce the Project's significant impacts to less-than-significant levels.

The Project is required to comply with the Maher Ordinance (San Francisco Public Health Code Article 22A), which provides a process for identifying, investigating, analyzing, and when deemed necessary, remediating or mitigating hazardous substances in soils. The Project is also required to comply with other local regulations as well as regional, state, and federal regulations related to hazardous materials (Draft EIR pp. 3.16-8 through 3.16-18).

As part of the analysis for the EIR, the project site underwent environmental testing, which included soil samples (Draft EIR pp. 3.16-3 through 3.16-7). The type of testing and documentation for the project site is included in Appendix M of the Project's EIR and is briefly summarized below.

- India Basin Shoreline Park
  - a limited Phase II soil investigation undertaken in 1999;
  - a Phase I Environmental Site Assessment ("ESA") conducted in 2015;
  - a data gap analysis, prepared in October 2016, identifying the information necessary to complete a site characterization of and risk assessment for the property; and
  - a site characterization report presenting the results of onshore sampling activities undertaken in late 2016 and offshore sediment sampling undertaken in March 2017.
- 900 Innes Avenue
  - a Phase I/II targeted brownfields assessment conducted for the U.S. Environmental Protection Agency Region 9 in September 2013;
  - an analysis of brownfield cleanup alternatives undertaken in September 2013;

- a foreshore sediment sampling technical memorandum prepared for the San Francisco Department of the Environment in September 2015;
  - a data gap analysis, prepared in October 2016, identifying required information necessary to complete a site characterization of and risk assessment for the property; and
  - a site characterization report, which presents results of onshore sampling activities undertaken in late 2016 and offshore sediment sampling undertaken in March 2017.
- India Basin Open Space
    - a soil characterization report dated September 2016;
    - a Phase I ESA dated April 2017 ; and
    - a site mitigation plan prepared in 2017.
  - 700 Innes Avenue
    - a Phase I ESA conducted in 2013;
    - a Phase II ESA conducted in 2014;
    - an updated Phase I ESA conducted in 2014; and
    - a site mitigation plan conducted in 2017.

The EIR disclosed that the Project would result in significant impacts and identified five mitigation measures (M-HY-1a, M-HY-1b, and M-HZ-2a through M-HZ-2c)-that would reduce the Project's significant impacts to less-than-significant levels (Draft EIR pp. 3.16-26 through 3.16-66).

As discussed in Response HZ-2 of the RTC document (RTC pp. 4-105 through 4-107), environmental testing was conducted for the entire project site, including the BUILD portion at 700 Innes Avenue. Regarding testing for radiological contamination, Response HZ-2 states that:

... the Technical Memorandum included in Appendix M of the Draft EIR (pp. 4166-4172 of Appendix M) explains the environmental testing rationale for all properties within the project site, and summarizes the extent of radiological contamination at the adjacent Hunters Point Navy Shipyard site. The Technical Memorandum states there were no indications of materials associated with radiological contamination such as radiological debris or sand blast material noted during the subsurface investigations within the project site. In addition, a review of the regulatory documentation of investigations and remediation activities at the nearby areas of Hunters Point Naval Shipyard have uncovered no evidence that radiological contamination has migrated to or threatens the project site. The Technical Memorandum concludes that radiological testing at the project

site is not required. This conclusion is based on available information, regulatory guidance, and opinions of professional engineers who performed the environmental assessments of the properties and determined that radiation issues do not raise a significant potential environmental concern.

In addition, the Site Mitigation Plans (Appendix M, pp. 3322-3449 and 3450-4098) prepared for the project contain contingency plans in the event that unexpected conditions are encountered during construction. The contingency plans include notification of regulatory authorities and response actions, in the unlikely event that radiological materials are discovered. These contingency plans, along with other mitigation requirements, were included in the Draft EIR and formed the basis for the analysis and conclusions that impacts of the proposed project or variant related to hazardous materials would be less than significant with mitigation incorporated.

Appellant has provided no evidence demonstrating that this approach is inadequate or that testing for radiological contamination would be required, or that approval of housing and open space facilities would result in significant environmental effects that were not previously disclosed in the EIR.

The Commission reviewed and considered the information contained in the EIR prior to approving the Project on July 26, 2018, and its decision to approve the Project was neither improper nor premature.

Regarding recent media reports about the discovery of a radioactive object at the Hunters Point Shipyard development site, the object in question (a deck marker for a naval vessel) is characteristic of former United States Navy (“Navy”) operations in the project vicinity. The Navy did not conduct operations on the India Basin project site, so it is highly improbable that such objects would be found on the India Basin project site.

Furthermore, the site mitigation plan for 700 Innes Avenue is still in draft form, and it includes mitigation measures to ensure that any contamination at the site would not be harmful to the environment or persons at the site, such as contingency measures for the discovery of any unknown substances, including radiological materials. If such materials are found, government regulators would ensure that such materials would be disposed of properly.

**Response 6: The EIR evaluates impacts associated with sea level rise.**

CEQA Requirement

Appendix G of the CEQA Guidelines includes a checklist of environmental topics that should be addressed as part of a project’s environmental review. Sea level rise is not included in this checklist, but impacts related to sea level rise can be addressed under the topic of hydrology and water quality. Pursuant to the checklist in Appendix G of the CEQA Guidelines, a project would have a significant impact related to hydrology and water quality if it would:

- place within a 100-year flood hazard area structures that would impede or redirect flood flows;
- or

- expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam.

### Analysis in the India Basin EIR

Section 3.15, Hydrology and Water Quality, of the EIR addresses sea level rise. Under Impact HY-6 (Draft EIR pp. 3.15-52 through 3.15-60), the EIR discloses that sea level rise may increase the chance of flooding on the project site. The analysis in the EIR considered four different future sea-level-rise scenarios. Some of the Project's shoreline recreational facilities (boardwalk, pedestrian pathways, portions of the Bay Trail, grassy areas, wetlands) would be flooded under future sea-level-rise scenarios, but the Project's habitable structures would be far enough inland that they would not be flooded under any of the future sea-level-rise scenarios considered in the EIR. The shoreline recreational facilities are flat features that would not channel or redirect water flow toward higher elevations or inland locations during storm surges. For these reasons, the EIR concluded that the Project would result in less-than-significant impacts related to flooding and sea level rise.

Furthermore, flooding of the project site associated with sea level rise would be an impact of the environment on the Project, not an impact of the Project on the environment. CEQA requires that the Project's impacts on the environment be studied and analyzed, not the environment's impacts on the Project, with very limited exceptions that are not present here, such as when a project exacerbates the effects of existing environmental hazards. (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) Cal. 4th 369, 388.) Here, for the reasons explained above, the Project does not exacerbate existing environmental impacts or hazards related to flooding. Appellant has not provided any evidence to demonstrate that this approach is inadequate.

**Response 7: Implementation of the Project would not result in significant impacts related to population and housing and would not result in potential social and economic effects that would directly or indirectly result in significant impacts on the physical environment beyond those identified in the EIR.**

### CEQA Requirement

#### *Population and Housing*

Appendix G of the CEQA Guidelines includes a checklist of environmental topics that should be addressed as part of a project's environmental review. Pursuant to the checklist in Appendix G of the CEQA Guidelines, a project would have a significant impact related to population and housing if it would:

- induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure);
- displace substantial numbers of existing housing units or create demand for additional housing, necessitating the construction of replacement housing; or

- displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

### *Gentrification*

Pursuant to CEQA Guidelines Section 15131(a), “economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.”

The analysis conducted pursuant to CEQA focuses on physical environmental impacts, such as impacts of a project on air quality, water quality, or wildlife habitat. In general, socioeconomic effects are beyond the scope of the CEQA environmental review process unless a link can be established between anticipated socioeconomic effects of a proposed action and adverse physical environmental impacts (CEQA Guidelines Section 15131(a); CEQA Section 21082.2).

### Analysis in the India Basin EIR

One Appellant asserts that implementation of the Project would: (1) result in significant impacts related to population and housing; (2) add several thousand primarily upper-class residents to Bayview Hunters Point, significantly increasing the population; and (3) dramatically change the neighborhood’s demographics and contribute to gentrification, especially in combination with the nearby Hunters Point Shipyard Project.

### *Population and Housing*

Section 3.3, Population and Housing, of the EIR (Draft EIR p. 3.3-1 through 3.3-14) discusses the increase in population and housing that would result from implementation of the Project. Impact PH-1 states that:

This analysis considers whether the proposed project or variant would contribute to substantial daytime and/or residential population growth. “Substantial” population growth is defined as increases in population that are unplanned, without consideration of or planning for infrastructure, services, and housing needed to support proposed residents, employees, and visitors. Acting in coordination with the California Department of Housing and Community Development, the Association of Bay Area Governments determines the Bay Area’s regional housing need based on regional trends, projected job growth, and existing needs. San Francisco’s fair share of the regional housing need for January 2015 through June 2022 was calculated as 28,870 units, or about 3,850 units per year. Although the proposed project or variant would cause the study area’s population to increase, growth in this area has long been the subject of many planning activities, including the *Bayview Hunters Point Area Plan*. In summary, the direct population and housing growth provided as part of the Project aligns with the City’s

redevelopment effort to create a vibrant high-density, mixed-use neighborhood along the Bayview shoreline.

As discussed under Impact PH-2, the Project would not displace substantial numbers of people or existing housing units. There are two residential parcels, 838-840 Innes Avenue and 702 Earl Street, on the project site that are currently occupied. These two parcels have a combined population of six people. With implementation of the Project, the residential structure at 838-840 Innes Avenue would be demolished, but the structure at 702 Earl Street, which currently houses four people, would be moved to a new location on the project site. Thus, two people would be displaced by the Project.

As discussed above, the Project would not result in substantial population growth and would not displace substantial numbers of people or existing housing units. For these reasons, the EIR concluded that the Project would result in less-than-significant impacts related to population and housing.

### *Gentrification*

Section 5.4, Socioeconomic Considerations under CEQA, of the EIR, addresses gentrification. The following discussion is an excerpt from the EIR (Draft EIR pp. 5-4 through 5-5):

Concerns have been raised in general throughout the City regarding the loss of middle-income jobs and affordable housing. These socioeconomic effects are not considered environmental effects unless they are shown to result in physical impacts on the environment and must be linked to the action undergoing CEQA review. The following discussion addresses these socioeconomic concerns.

By accommodating demand for jobs and housing consistent with regional growth projections, and in particular by increasing the supply of both market-rate and affordable housing, the proposed project or variant would provide some relief to San Francisco's housing market pressures. However, the effect that development under the proposed project or variant would have on housing affordability is a matter of considerable controversy. Although there is general consensus that the high costs of market-rate housing and the limited supply of affordable housing in San Francisco are causing displacement of lower income residents, opinions differ on the underlying causes.

In September 2015, the City Office of the Controller, Office of Economic Analysis, published a report addressing the effects of temporary and permanent moratoria on new market-rate housing projects in San Francisco's Mission District.

The report concluded that constraining the supply of market-rate housing units through a moratorium would result in higher housing prices. With fewer available units, both buyers and renters would engage in bidding wars and drive housing prices upward. Because market-rate housing developers are required to provide a certain percentage of affordable housing units in compliance with the City's inclusionary housing program, a temporary moratorium on new market-rate housing projects would delay the production

of these affordable housing units, while a permanent moratorium would result in no new affordable housing units under this program. The report concluded that a moratorium on new market-rate housing projects would not entirely eliminate the potential for the displacement of existing businesses and residents, because other types of development projects (affordable housing, commercial, production/distribution/repair) could similarly displace existing businesses and residents.

CEQA prohibits the finding of significant impacts that are not based on substantial evidence of adverse physical changes to the environment. As described above, these social and economic concerns regarding affordable housing are being addressed in the City's planning and policy development processes. There is no evidence that the proposed project or variant would result in potential social and economic effects that would result in significant effects on the physical environment. Changes to the physical environment that would result from the proposed project or variant are addressed in the appropriate environmental topics in this EIR and in the accompanying Initial Study.

Appellant does not provide substantial evidence that gentrification caused by the Project, either independently or in combination with other nearby development projects, would result in adverse physical environmental impacts that were not previously disclosed in the EIR.

**Response 8: The Banya was included in the EIR as an adjacent land use that could be affected by implementation of the Project.**

#### CEQA Requirement

Pursuant to CEQA Guidelines Section 15125(a),

an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

Pursuant to CEQA Guidelines Section 15126.2,

an EIR shall identify and focus on the significant environmental effects of the proposed project. ... Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land



(including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected. ... Similarly, the EIR should evaluate any potentially significant impacts of locating development in other areas susceptible to hazardous conditions (e.g. floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas.

### Analysis in the India Basin EIR

One Appellant asserts that the Banya was not considered in the analysis of the Project's environmental impacts. This statement is incorrect.

As discussed in Response GC-2 of the RTC document (RTC pp. 4-115 through 4-117), the Banya was specifically mentioned in the EIR as part of the existing environmental setting and was considered in the analysis of the Project's environmental impacts:

The Archimedes Banya building was analyzed in the EIR under each relevant topic as a residential and commercial property; however, the name of this institution was not mentioned explicitly in the EIR. Text changes have been made to the Draft EIR in Chapter 2.0, "Project Description," and Section 3.2, "Aesthetics," identifying the building by name for clarification.

The following paragraphs discuss some of the key environmental topics identified in the Draft EIR for which the proposed project or variant have the potential to impact the Banya. The proposed project or variant's impacts related to the following topics include the Banya building location as an adjacent use in Draft EIR Section 3.2, "Aesthetics"; Section 3.5, "Transportation and Circulation"; Section 3.6, "Noise"; Section 3.7, "Air Quality"; Section 3.9, "Wind"; and Section 3.10, "Shadow," respectively.

The Banya's roof deck was not identified as an affected location in the EIR's analysis of the Project's wind and shadow impacts, because the Banya's roof deck is not publicly accessible; it is only accessible to the Banya's paying customers. Wind and shadow impacts on privately owned and privately accessible open spaces are not considered physical environmental impacts under CEQA, but they may be considered by City decision-makers during their deliberations on whether to approve, modify, or disapprove a proposed project.

Similarly, impacts on a privately owned and privately accessible open space or recreation facility such as the Banya's roof deck are not considered physical environmental impacts under CEQA. Although implementation of the Project would result in loss of privacy for the Banya's customers who use the roof deck for passive recreation, loss of privacy is not a physical environmental impact. Loss of privacy is a social effect. As discussed in Appeal Response 7 above, CEQA Guidelines Section 15131(a) provides that "economic or social effects of a project shall not be treated as significant effects on the environment." In

general, social effects such as loss of privacy for the Banya's customers who sunbathe nude on the roof deck are beyond the scope of CEQA unless a link can be established between anticipated social effects of a proposed action and adverse physical environmental impacts. City decision-makers may consider loss of privacy during their deliberations on whether to approve, modify, or disapprove a proposed project.

During the Draft EIR hearing on October 19, 2017, the Commission noted that if the Banya had been overlooked in the analysis, that oversight should be corrected. The Commission subsequently reviewed the RTC document. During the Final EIR certification hearing on July 26, 2018, the Commission did not make any additional comments related to the Banya and certified the Final EIR.

## **CONCLUSION**

Appellants have not raised any new issues related to the Project's physical environmental impacts that were not previously addressed in the Draft EIR and appendices, in the RTC document, or during the Final EIR certification hearing. As discussed above, the analysis and conclusions of the Final EIR are supported by substantial evidence in the record. Moreover, Appellants have not provided substantial evidence in support of their arguments regarding the adequacy and accuracy of the Final EIR. Argument and speculation alone are not substantial evidence under CEQA. Even if Appellants had provided substantial evidence that contradicts the analysis and conclusions of the Final EIR, the agency's adequacy determination remains valid when the EIR is based on substantial evidence in the record. The Final EIR and supporting documents provide such substantial evidence.

For the reasons stated above, the Commission's certification of the Final EIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code. The Department, therefore, recommends that the Board uphold the Commission's decision to certify the Final EIR and deny the appeals.



Source: Google Earth

# DRAFT ENVIRONMENTAL IMPACT REPORT

## India Basin Mixed-Use Project

PLANNING DEPARTMENT  
CASE NO. 2014-002541ENV

STATE CLEARINGHOUSE NO. 2016062003

Very large file. Document is available for viewing at the Office of the Clerk of the Board or by clicking this link to open a web browser to be redirected to the Legislative Research Center:

<https://sfgov.legistar.com/View.ashx?M=F&ID=6625725&GUID=B37EE28C-4591-44C4-9F6E-904E9D01BAEE>



SAN FRANCISCO  
PLANNING  
DEPARTMENT

Draft	Draft EIR Publication Date:	September 13, 2017
	Draft EIR Public Hearing Date:	October 19, 2017
	Draft EIR Public Comment Period:	September 14, 2017 – October 30, 2017

Written comments should be sent to:

Michael Li  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
or michael.j.li@sfgov.org 3209

# Appendix A

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## EIR Public Involvement

- Initial Study
- Notice of Preparation (NOP) of an Environmental Impact Report and Public Scoping Meeting
- Notice of Availability (NOA) of NOP of an Environmental Impact Report
- Public Comments Received in Response to Initial Study during Scoping Meeting
- Public Comments Received After the Initial Study Scoping Period

Very large files. Documents are available for viewing at the Office of the Clerk of the Board or by clicking the following links to open a web browser to be redirected to the Legislative Research Center:

- [EIR Appendix A - Public Involvement](#)
- [EIR Appendix B - Design Standards-Guidelines](#)
- [EIR Appendix C - Cultural Resources](#)
- [EIR Appendix D - Transportation](#)
- [EIR Appendix E - Noise](#)
- [EIR Appendix F - Air Quality](#)
- [EIR Appendix G - GHG Emissions](#)
- [EIR Appendix H - Wind](#)
- [EIR Appendix I - Shadow](#)
- [EIR Appendix J - Utilities](#)
- [EIR Appendix K - Bio Resources](#)
- [EIR Appendix L - Hydro Water Quality](#)
- [EIR Appendix M - Hazards - Parts 1 and 2](#)
- [EIR Appendix M - Hazards - Parts 3 through 5](#)



# RESPONSES TO COMMENTS ON DRAFT EIR

## India Basin Mixed-Use Project

PLANNING DEPARTMENT  
CASE NO. **2014-002541ENV**

STATE CLEARINGHOUSE NO. 2016062003



SAN FRANCISCO  
PLANNING  
DEPARTMENT

Draft	Draft EIR Publication Date:	September 13, 2017
	Draft EIR Public Hearing Date:	October 19, 2017
	Draft EIR Public Comment Period:	September 14, 2017 – October 30, 2017
Final	Final EIR Certification Hearing:	July 26, 2018

Very large file. Document is available for viewing at the Office of the Clerk of the Board or by clicking this link to open a web browser to be redirected to the Legislative Research Center:

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**BOARD OF SUPERVISORS CITY OF SAN  
FRANCISCO**

Planning Case No. 180841

**GREENACTION for HEALTH and  
ENVIRONMENTAL JUSTICE**

**APPEAL OF EIR APPROVAL INDIA BASIN  
PROJECT**

v.

**DATE:** September 17, 2018

**SAN FRANCISCO PLANNING  
DEPARTMENT**

**INTRODUCTION**

On August 27, 2018, Greenaction for Health and Environmental Justice (“Greenaction”) appealed the Planning Commission’s (“Planning”) approval of India Basin Mixed Use Project.

Among the issues raised on appeal is language access. Planning’s failure to provide translated documents in the EIR process inherently discriminated against limited English proficiency (“LEP”) citizens and barred them from active participation in local decision making directly affecting their health. This brief addresses the language access issues on appeal.

**STATEMENT OF FACTS**

On June 7, 2016, Greenaction wrote to Planning raising the language access issue in the Scoping and EIR processes; English-only notices in the environmental review process. (See *Exhibit*

E, pg. 1). Planning's Brett Bollinger responded on June 7, 2016. Mr. Bollinger stated that it did “not have the resources to translate every page of analysis into multiple languages.” (See Exhibit H, pg. 1). Mr. Bollinger also provided a link to the Mayor’s Office of Disability for individuals that need translation services.

By email correspondence on September 29, 2017, Planning’s Joy Navarrete stated that it would “translate the Notice of Availability of the Draft EIR into Spanish Chinese, and Tagalong.” (See Exhibit I, pg. 1). Navarrete also acknowledged that lack of the translations, describing it as an “unfortunate oversight.”(See Exhibit I, pg. 1).

On September 8, 2017, in an email from Lisa Gibson, the Environmental Review Officer at Planning, Gibson stated the developer BUILD, Inc., had “proposed” to translate the Draft EIR Executive summary into other languages: “We acknowledge that the department did not provide a translated Notice of Availability of the Notice Preparation of an EIR, *an oversight we deeply regret.*” (Emphasis added, See Exhibit A pg. 2). To the extent Planning did translate the documents into the locally relevant languages, it was too late to provide LEPs with an opportunity to participate.

The City of San Francisco’s website contains a section entitled *Language Diversity Data* which displays the breakdown of languages spoken by neighborhood (<https://sfgov.org/oceia/language-diversity-data>). Bayview, the neighborhood the India Basin project will join, has a total of 34,956 residents. Below is a breakdown of the limited English proficient (LEP) community in Bayview alone:

**Total Population by Language spoken at home, Limited English Proficient (“LEP”)**

<b>Language</b>	<b>Number of (LEP) Residents</b>
Chinese	6,189
Spanish	3,180
Vietnamese	609
Filipino	321
Other Asian Pacific Islander	262

Other Indo European	96
Russian Polish or Slavic	39
German	17
French	11
Korean	9

This data demonstrates that 10,733 of the 34,956, or 30.7% of Bayview residents, have limited English abilities.

In total, the city’s website counts 171,758 LEPs citywide, a significant proportion to exclude from civic engagement.

## ARGUMENT

### **I. Planning Has a Duty to Translate Important Documents such as the Notice of Availability and the Draft EIR Into Locally Relevant Languages.**

#### **A. Excluding LEPs from Civic Decision Making Is Discriminatory under Title VI of the Civil Rights Act of 1964.**

Title VI prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. 28 C.F.R §42.104 (vii)(3) states:

In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this subpart applies, on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this subpart.

By excluding LEPs from civic decision making, Planning is discriminating against LEPs based on national origin. By not providing the Notice and draft EIR in languages other than English, Planning is actively excluding individuals from a program that has direct impact on them; in this case, significantly more air pollution that will impact their health.

The U.S. Department of Justice issued guidance establishing four factors that an agency may use to determine whether it must provide access to language services: 1) How many limited English-



proficient speakers does the program serve or encounter? 2) How often do limited English-proficient speakers come into contact with the program? 3) What kind of program, activity, or service does the agency provide and how important is it to people's lives? 4) How much will it cost to provide language access services and what resources are available to the program?

<https://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>.

In applying these factors to India Basin, it is clear that significant numbers of LEPs are affected and Bayview LEPs will encounter the India Basin project every day. Planning's decision is critically important to the community's health. Furthermore, although Planning claims it does not have the resources to translate, it has not offered any quantification of those costs whatsoever. Under the circumstances, Planning's failure violates the DOJ guidelines.

Language access is not merely about process, it is a tool that allows the residents of Bayview to advocate for their health and well-being and protect themselves from diseases like asthma, to which they are already susceptible.

Planning did not take into account Bayview's LEP population in making its decision. This constitutes discrimination based on national origin. Planning calls its failure "an unfortunate oversight," (*See Exhibit I*, pg. 1) but in reality it is an admission Planning knows it should have translated important documents but did not.

## **B. Excluding LEPs Is Discriminatory Under California Gov. Code 11135**

Gov. Code 11135 states:

No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state."

This language is much broader than Title VI, incorporating more protected categories.

Language discrimination implicates all of the protected classes underlined above.

### **C. Excluding LEPs From Civic Decision Making Violates The Dymally-Alatorre Bilingual Services Act**

Under Government Code Section 7290, et seq., California state and local agencies are required to facilitate access to information and services for non-English speaking members of the public. The Act states “that the effective maintenance and development of a free and democratic society depends on the right and ability of its citizens and residents to communicate with their government and the rights and ability of the government to communicate with them.”

Planning failed its obligation as a lead agency to assess the need for translating notices into non-English languages. It also ignored Greenactions request for translation on multiple occasions. Planning’s violation of this act bars citizens from their lawful right to participate in civic decision making.

In addition, in August 2016, Greenaction, El Pueblo para el Aire y Agua Limpia (joint plaintiffs) and the California Environmental Protection Agency (“EPA”) and Department of Toxic Substances Control (“DTSC”) entered into an agreement in a case involving permitting hazardous waste facilities in Kettleman, California. In it, EPA and DTSC committed “to provide meaningful opportunities for public input, including language access and community education, and to be responsive to all public inquiries.” The settlement called for translation of executive summaries of decision-making documents and supporting technical documents of substantial importance, “including California Environmental Quality Act decision documents prepared by DTSC.” The settlement calls for “[t]imely notices in English and any other appropriate languages, with the English and translated versions on the same page when feasible, for workshops, meetings, available drafts, comment periods, and related documents and publications,” and “accommodation of cultural, linguistic, and educational characteristics of the affected communities.” (See *Exhibit J*, pp. 3-7.)

While the Kettleman Settlement may not bind City agencies, it establishes a template for language access throughout California – one San Francisco, a city that proudly welcomes non-English-speaking immigrants from around the world, should embrace.

**D. Excluding LEPs Violates San Francisco Administrative Code, Chapter 12A**

Administrative Code Chapter 12A.2 states:

It is hereby declared: That the policy of the City and County of San Francisco is to act to give effect to the rights of every inhabitant of the City and County to equal economic, political and educational opportunity, to equal accommodations in all business establishments in the City and County and to equal service and protection by public agencies; That an instrumentality should be established to give effect to such rights, to eliminate prejudice and discrimination because of race, religion, color, ancestry, age, sex, sexual orientation, gender identity, disability, or place of birth, to inform the inhabitants of the City and County of developments in human relations, to provide expert advice and assistance to the officers, agencies, boards, departments and employees of the City and County in undertaking ameliorative practices to keep peace and good order and to officially encourage private persons and groups to promote and provide equal opportunity for and good will toward all people.(Emphasis added.)

Planning's refusal to offer translations of important documents contradicts this San Francisco policy. By not accommodating LEPs, it has barred equal access to public agencies by virtue of their non-English-speaking ancestry and place of birth. Though Planning provided a link to the Mayor's Office of Disability for those seeking translation services, this only serves to underline unequal access for two reasons. First, the link was provided in *English*, the very language LEPs need translation help with. Why would one look for language translation services under "disability?" This is hardly adequate notice. Second, the link was to the Department of Disabilities, alluding to LEPs as having disabilities. This is not the attitude San Francisco government agencies should take.

**E. Excluding LEPs is a violation of the Planning Department's own Language Access Ordinance**

In addition to the City-wide policy, Planning has its own language access policy. It states it will provide free language assistance to LEPs when *requested*. (See <http://sf-planning.org/language-access-ordinance>). Planning provides both translation and interpretation services.

Greenaction *requested*, on June 7, 2016, that the Planning Department extend the public comment period beyond July 1 2016 to ensure meaningful civic engagement and to ensure environmental documents were prepared and provided in additional languages besides English. On June 9, 2016 the Planning Department denied Greenaction's requests. This denial is in direct

contradiction with the policy they allegedly uphold themselves to. Thus, the Planning Department has not upheld their duty to provide language assistance to (LEP) speakers.

### **Conclusion**

Planning has failed in its duty to provide access to decision making processes to LEPs through its failure to provide adequate translation services. Its failure is discriminatory and has created a significant bar on civic engagement in violation of federal and state law and city policy. Its failure has created a significant bar on civic engagement in the India Basin project. Planning's decision must be overturned.

Respectfully submitted,



Steven Castleman

September 17, 2018

**EXHIBIT J**

## SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is made, entered into and executed by and between Greenaction for Health and Environmental Justice and El Pueblo para el Aire y Agua Limpia (collectively, Complainants) and the California Environmental Protection Agency (CalEPA) and Department of Toxic Substances Control (DTSC).

Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d to 2000d-7, and the United States Environmental Protection Agency (U.S. EPA) Title VI regulations, 40 C.F.R. Part 7, prohibit discrimination on the basis of race, color, or national origin in any programs or activities receiving federal financial assistance. DTSC and CalEPA are recipients of financial assistance from U.S. EPA and are subject to the provisions of Title VI and U.S. EPA's implementing regulations.

### **SECTION I: FACTUAL BACKGROUND.**

#### The Parties

- A. El Pueblo para el Aire y Agua Limpia (El Pueblo) is a grassroots unincorporated association of the residents of Kettleman City, California. El Pueblo advocates for the health of Kettleman City residents, to preserve a clean environment, and for the rights of the people of Kettleman City.
- B. Greenaction for Health and Environmental Justice (Greenaction) is a grassroots organization that advocates for a clean environment for all people and for meaningful and equal opportunities for public involvement in government decision-making processes for environmental justice communities and other communities, including, but not limited to, non-English speaking and limited-English speaking communities.
- C. CalEPA is the State of California's cabinet-level environmental agency, comprised of DTSC, the Air Resources Board, the Department of Pesticide Regulation, the Department of Resources Recycling and Recovery, the Office of Environmental Health Hazard Assessment, and the State Water Resources Control Board. CalEPA's mission is to restore, protect and enhance the environment, to ensure public health, environmental quality and economic vitality.
- D. DTSC, among other functions, oversees the permitting of hazardous waste facilities. DTSC's mission is to protect California's people and environment from the harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products.

#### Kettleman City, the Kettleman Hills Facility, and the Permit Modification Decision

- E. Kettleman City is located in Kings County, California. A substantial percentage of Kettleman City residents are monolingual Spanish speakers.

- F. The Kettleman Hills Facility (KHF) is a hazardous waste disposal facility owned and operated by Waste Management, Inc. through its subsidiary Chemical Waste Management, Inc. KHF is located approximately three miles from Kettleman City in Kings County.
- G. Chemical Waste Management, Inc. has a permit to dispose of hazardous waste in KHF. DTSC approved a modification to the permit on May 21, 2014, expanding the hazardous waste landfill unit (B-18) at KHF.

#### Petitions for Review of the 2014 Permit Decision

- H. Greenaction and El Pueblo objected to DTSC's May 21, 2014, permit decision on numerous grounds, including civil rights grounds, and filed a Petition for Review of the decision with DTSC on June 23, 2014.
- I. DTSC denied the Petition for Review on October 13, 2014.

#### Title VI Complaint to the U.S. EPA's Office of Civil Rights

- J. El Pueblo and Greenaction filed a complaint (the Title VI Complaint) with U.S. EPA's Office of Civil Rights (OCR) against CalEPA and DTSC on March 19, 2015, (EPA File No. 09R-15-R4). The Title VI Complaint objected to DTSC's May 21, 2014, permit decision.
- K. OCR accepted the complaint for investigation by letter on April 17, 2015, concluding it met the four jurisdictional requirements described in U.S. EPA's nondiscrimination regulations.
- L. OCR identified in its acceptance letter the three areas for investigation under U.S. EPA's jurisdiction and stated that it would contact the parties about alternative dispute resolution. The parties agreed and mediation sessions were held on the following dates in 2016: January 19 and 20, February 24, April 1, May 6, June 15, and July 29.

#### **SECTION II: RECITALS.**

- A. DTSC and CalEPA are committed to carrying out their responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and U.S. EPA implementing regulations. The activities detailed in Sections III and IV of this Agreement, which DTSC and CalEPA have voluntarily agreed to undertake and implement, are in furtherance of this commitment;
- B. DTSC and CalEPA are committed to continually improve their internal operations and processes, and strive to streamline CalEPA and DTSC operations through optimally utilizing information technology and human resources;

- C. DTSC and CalEPA are committed to provide meaningful opportunities for public input, including language access and community education, and to be responsive to all public inquiries;
- D. DTSC and CalEPA maintain an ongoing interest in integrating better protections for human health, vulnerable communities, the environment, and civil rights into DTSC programs;
- E. Complainants advocate for meaningful and equal opportunities for public involvement in government decision-making processes for environmental justice communities and other communities, including, but not limited to, non-English speaking and limited-English speaking communities;
- F. Complainants are committed to ensuring that Kettleman City is restored to being a healthy, vibrant community, removing the ill effects of decades of hazardous waste in its environs, and improving the quality of the environment, life and health for Kettleman City residents;
- G. Complainants are committed to ensuring that the civil rights of Kettleman City residents and all people of color and non-English proficient people are respected, protected and enforced so they can effectively and safely participate in environmental, permitting and governmental decision-making processes that are language accessible and free of intimidation;
- H. This Agreement is a model for the types of activities and considerations that can help vulnerable communities and DTSC's actions in vulnerable communities;
- I. Complainants and CalEPA and DTSC agree to work together to continue to increase opportunities to assist vulnerable communities, including, but not limited to, communities predominantly comprised of low-income people of color disproportionately affected by socio-economic burdens and environmental pollution (e.g., factors identified by health screening tools such as CalEnviroScreen), and to provide for meaningful public involvement; and
- J. El Pueblo, Greenaction, DTSC and CalEPA, (collectively, the Parties) therefore agree to the following terms described in the remainder of this Agreement.

### **SECTION III: SPECIFIC TERMS RELATED TO KETTLEMAN CITY.**

- A. Notice to Complainants of Actions at KHF. DTSC will continue to notify Complainants, through DTSC's electronic notification system, of opportunities for public comment and other important actions related to KHF. DTSC will notify Complainants of any statement of violation or enforcement order related to KHF's hazardous waste landfill operations and will make non-confidential background information available online if notice is not already provided through the existing notification system. DTSC's provision of additional non-electronic notifications to the Complainants ends when DTSC makes a decision on Chemical



Waste Management, Inc.'s permit renewal application submitted to DTSC on February 12, 2013. DTSC will notify the Complainants of that decision.

- B. Considerations related to KHF Hazardous Waste Permit Applications. DTSC acknowledges that decisions regarding whether to issue or deny Chemical Waste Management, Inc.'s permit renewal application submitted to DTSC on February 12, 2013, and any other permit decision for KHF must be made on the record after public notice, an opportunity for public comment, and public hearing(s) in compliance with the California Health and Safety Code, California Administrative Procedures Act, and applicable regulations including civil rights and language access regulations and laws. DTSC may not predetermine its permitting decisions. Consistent with these requirements, DTSC will consider the factors listed below related to Chemical Waste Management, Inc.'s February 12, 2013, permit renewal application and for an application to expand a hazardous waste management unit at KHF, if such application is submitted during a three-year period following the Effective Date of this Agreement. The factors to be considered include:
1. Kettleman City's vulnerability as identified by CalEnviroScreen indicators for such vulnerability, including pollution levels, income, health, linguistic isolation and language access needs.
  2. Whether the decision on the permit application and processes undertaken in relation to the permit decision are consistent with applicable civil rights laws.
  3. Enforcement actions against KHF since the last permit issuance.
  4. Violations or noncompliance that show a repeating or recurring pattern.
- C. Petitions for Review and Civil Rights. DTSC acknowledges that Petitions for Review of permit decisions are an appropriate forum in which to raise objections to DTSC's permitting decisions that include civil rights claims, when those objections are raised consistent with DTSC's regulations.
- D. Improved Air Quality Controls. DTSC, using its regulatory authorities during the consideration of the February 12, 2013, permit renewal application, and in consultation with CalEPA and the San Joaquin Valley Air Pollution Control District, will analyze measures to reduce air pollution related to KHF's hazardous waste management activities to help improve air quality in Kettleman City. These analyses will include the consideration of:
1. Use of emissions control devices for vehicles and equipment used on-site and in association with the hazardous waste operations at KHF.
  2. Rerouting trucks associated with KHF's hazardous waste operations either by avoiding the use of Highway 41 by those trucks within Kettleman City limits or by requiring the trucks to use a bypass.
  3. Coordination with the California Air Resources Board and the San Joaquin Valley Air Control District to reduce illegal diesel vehicle idling.
  4. Monitoring and enforcement of permit conditions.
- E. Improved Environmental Monitoring and Enforcement. DTSC will use its best efforts to support additional monitoring including of the air and water quality in Kettleman City and its environs through support of grant funding opportunities during the three years following the Effective Date of this Agreement. This support will include:

1. Efforts to identify potential sources of funding for a neutral, third-party expert to conduct air and water quality monitoring not otherwise funded by Chemical Waste Management, Inc.
2. Providing technical assistance to prepare and submit grant applications, and as appropriate, may apply or co-apply or provide assistance as a supporting agency.
3. Supporting, as needed, community education meetings including written notices of such meetings, in English and Spanish, that help to inform community members about what is being monitored, whether any issues have been identified, how such issues are being addressed, and whether there is progress toward addressing the issues.
4. Supporting community monitoring activities (separate from expert third-party monitoring) by working to identify potential sources of funding for monitoring activities and for a third-party expert to conduct an analysis of the community air monitoring data, providing technical assistance to prepare and submit grant applications, and as appropriate, may apply or co-apply or provide assistance as a supporting agency.

F. Public Health Assessments and Programs in Kettleman City. DTSC, in consultation with CalEPA, will use its best efforts to support and cooperate in the Complainants' efforts to develop the following public health assessment and programs in Kettleman City during the three years following the Effective Date of this Agreement. The Parties recognize that Complainants have limited capacity and that execution of the below activities can only occur if sufficient technical and financial support is provided:

1. A community-based participatory environmental health assessment that analyzes the human health effects in Kettleman City from exposure to pollution, including air pollution, hazardous waste, and other contaminants, as appropriate. This assessment will include the following:
  - a. Researchers with expertise working with community members, including from the University of California or other recognized experts in the field identified and approved by DTSC and Complainants. These expert partners will help to design the assessment, in conjunction with members from the Kettleman City community, and collect and analyze the relevant data in a participatory manner.
  - b. Biomonitoring of willing individuals from the Kettleman City community and employees of KHF. Researchers will collect and analyze, in a participatory way, information on the health indicators of the residents and employees, including the degree of exposure to toxic substances, and other substances that may pose health risks, and make that information available to the residents of Kettleman City and KHF employees in an accessible form. Biomonitoring activities shall comply with applicable legal obligations, including confidentiality requirements. The Parties agree that biomonitoring information could be submitted to DTSC during its consideration of any permit application by Chemical Waste Management, Inc. related to KHF, and that DTSC shall consider the data during its review and decision on any such permit.
  - c. Efforts to identify federal or state grants or funding from other sources. DTSC and CalEPA, as appropriate, may apply or co-apply or provide assistance as a supporting agency for such funding opportunities, with third parties such as community groups or a California university identified and approved by Complainants and DTSC, and

- provide technical assistance to these third parties to prepare and submit grant applications for public health assessments and bio-monitoring.
  - d. Materials, findings, and recommendations accessible to Kettleman City residents and prepared in both English and Spanish.
  - e. Regular evaluations of the progress of the assessment.
2. An asthma intervention program to help inform and address the asthma issues among the residents of Kettleman City after funding is secured and includes the following:
    - a. Researchers with expertise working with community members, including from the University of California or other recognized experts in the field identified and approved by DTSC and Complainants, with input from any individuals from the Kettleman City community who wish to provide input. These expert partners will help to design and implement the asthma intervention program in a participatory manner.
    - b. Federal or state grant funding, or funding secured from other sources with CalEPA and DTSC assistance.
    - c. Program design and implementation with the active, meaningful participation of the Complainants and individuals from the Kettleman City community.
    - d. Regular evaluations of the asthma intervention program's progress.
    - e. Regular reporting of the program's findings that are translated into Spanish and accessible to the residents of Kettleman City.

**G. Clean Water for Kettleman City.**

1. DTSC and CalEPA agree to consult with relevant agencies to provide updates to community residents on the status of the Kettleman City Community Services District's Surface Water Treatment Facility drinking water project.
2. DTSC and CalEPA agree to use their best efforts to request expedited review and implementation of the water project.

**SECTION IV: PROGRAMMATIC AND REGULATORY TERMS.**

- A. Civil Rights Compliance: Applicable state and federal civil rights requirements will be complied with during DTSC's permitting process for hazardous waste disposal facilities and during regulatory oversight of facilities under its jurisdiction.
1. Applicable civil rights requirements include (but are not limited to) the following:
    - a. The Civil Rights Act of 1964 including Title VI of that Act.
    - b. The Dymally-Alatorre Bilingual Services Act of 1973.
    - c. California Government Code 11135.
  2. DTSC will take into account and address as appropriate relevant civil rights guidance during its permitting process for hazardous waste disposal facilities, including:
    - a. U.S. EPA Title VI Limited English Proficiency Guidance, 69 Federal Register 35602.
    - b. U.S. Department of Justice Title VI Limited English Proficiency guidance, 67 Federal Register 41455.
    - c. DTSC Bilingual Services Policy.

- B. Civil Rights Policy. DTSC, in consultation with CalEPA and after public comment, will adopt and implement a policy that describes DTSC's compliance with civil rights requirements during DTSC's permitting processes for hazardous waste facilities. DTSC will publish a draft civil rights policy, including language access policies, no later than nine (9) months after the Effective Date of this Agreement and will adopt a final policy no later than eighteen (18) months after the publication of the draft policy. The draft policy circulated for public comment shall include the following elements:
1. The review of hazardous waste permit applications.
  2. Comments on such applications.
  3. The creation of environmental documents and hazardous waste permit decisions.
  4. Consideration of Petitions for Review to appeal a permit decision for alleged civil rights violations.
  5. In the event that non-compliance is found, a procedure to address civil rights complaints raised during public comment periods and in Petitions for Review of permit decisions.
- C. Public Participation and Language Access Policies. DTSC will, after receiving public comment, adopt and implement one or more policies to enhance public involvement using procedures that provide for early identification and integration of public concerns into permitting decisions, including concerns of communities identified pursuant to Health and Safety Code Section 39711. DTSC will draft a policy or policies on public participation and language access for DTSC processes no later than nine (9) months after the Effective Date of this Agreement and will adopt a final policy or policies eighteen (18) months after the publication of the draft policy or policies. In developing the policy or policies on public participation and language access DTSC will consider the following:
1. The need for language access in DTSC processes and the need to collect and assess data on the Limited English Proficiency (LEP) needs of the individual communities affected by DTSC's hazardous waste disposal permitting processes.
  2. The need for DTSC to develop a comprehensive action plan to address identified LEP needs.
  3. Translation of executive summaries of decision documents and technical documents of substantial importance prepared by DTSC for permitting decisions, including California Environmental Quality Act decision documents prepared by DTSC.
  4. Meaningful public participation through processes that comply with civil rights laws, regulations, polices, and guidance and have the following elements:
    - a. Clear prohibition on discriminatory practices, including practices of intimidation and hostile environments that prevent meaningful public participation.
    - b. Meetings and hearings at appropriate times and locations that facilitate the ability of members of the public to participate, including interpretation in public meetings and hearings held by DTSC and translation of accompanying visuals, handouts, and presentations.
    - c. Timely notices in English and any other appropriate languages, with the English and translated versions on the same page when feasible, for workshops, meetings, available drafts, comment periods, and related documents and publications.
    - d. Accommodation of cultural, linguistic, and educational characteristics of the affected communities.

- D. Senate Bill (SB) 673 Regulatory Reform and Community Vulnerability. DTSC will, no later than January 1, 2018, and consistent with SB 673's (Sen. Bill No. 673 (2015-2016, 1<sup>st</sup> Ex. Sess.) requirements related to hazardous waste facility permit decisions, adopt by regulation criteria for permit issuance. In developing these regulations, DTSC shall consider criteria that will include the assessment of vulnerability and existing health risks using available tools, such as CalEnviroScreen, California Health and Safety Code Section 39711, and other appropriate determinations or assessments, including cumulative impact analysis, and actions that can help to address potential impacts from hazardous waste facilities in vulnerable communities.
- E. Coordination and Communication with Other Agencies. DTSC will transmit notice of new regulations, policies, and guidance to other state and local agencies with jurisdiction over hazardous waste disposal permitting after the completion of the new policies described in Section IV of this Agreement.

#### **SECTION V: DISPUTE RESOLUTION TERMS.**

- A. Notification: Complainants shall notify DTSC and CalEPA in writing if Complainants contend that DTSC or CalEPA has not satisfied a term of this Agreement. Complainants' written notice to DTSC and CalEPA shall be made within ninety (90) calendar days of receipt of DTSC or CalEPA actions or an alleged failure to act and shall include a statement of the facts and circumstances upon which Complainants relied in making their determination.
- B. Resolution: The parties shall attempt to resolve any disputed issue(s) by informal means if Complainants disagree with DTSC or CalEPA's execution of any of the terms described in this Agreement and submit written notice of this disagreement as described above in paragraph A of this section. DTSC, CalEPA and Complainants will have sixty (60) calendar days from the date DTSC and CalEPA receive Complainants' written notice to resolve and memorialize any disputed issue(s) by informal means. The Parties may agree in writing to continue the 60-calendar day period for dispute resolution.
- C. Alternative Remedies: If DTSC, CalEPA and Complainants are unable to reach a mutually acceptable resolution of the dispute within 60 calendar days, or other mutually agreed upon period of time, then Complainants may terminate this Agreement by providing a written notification to DTSC and CalEPA. Thereafter, Complainants may reinitiate their Title VI complaint resolved by this Agreement and use any other means authorized by law to raise claims regarding compliance with Title VI.

#### **SECTION VI: EFFECT OF AGREEMENT AND PUBLIC DISCLOSURE TERMS.**

- A. The Parties have settled the Title VI Complaint (EPA File No. 09R-15-R4) filed by Greenaction and El Pueblo as of the Effective Date of this Agreement. This Agreement constitutes a full and final release among the Parties (except for the executory provisions hereof) of only the specific claims made in Complainants' Title VI Complaint (U.S. EPA File No. 09R-15-R4) about the May 21, 2014, permit modification. Complainants reserve any

and all rights, claims, demands, and causes of action which they might have against CalEPA or DTSC with respect to any matter, transaction, or occurrence which was not made in Complainants Title VI Complaint specifically about the May 21, 2014, permit modification.

- B. The Parties agree that signing this Agreement will result in the full resolution of the Title VI Complaint (U.S. EPA File No. 09R-15-R4) and understand that OCR will issue a letter closing the complaint upon receipt of the executed Agreement. The Parties further acknowledge that the mediator will provide a copy of the executed Agreement to OCR.
- C. This Agreement constitutes the entire agreement between DTSC, CalEPA and the Complainants regarding the matters addressed, and no other statement, promise, or agreement, made by any other person shall be construed to change any term of this Agreement, except as specifically agreed to by DTSC, CalEPA and the Complainants in accordance with the provisions of this Agreement.
- D. This Agreement does not constitute an admission by DTSC or CalEPA or a finding of any violations of 40 C.F.R. Part 7 in connection with the allegations in Complainants' Title VI Complaint.
- E. This Agreement does not constitute an admission or decision by any party that hazardous waste permits for KHF should or should not be approved or should or should not include any specific conditions.
- F. The Parties do not intend, and nothing in this Agreement shall be construed to mean, that any provision in this Agreement creates any right or interest in any non-party or in any member of the public as a third-party beneficiary.
- G. Any party seeking to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to DTSC's or CalEPA's programs or authorities, or for other good cause, shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written agreement executed by all Parties.
- H. This Agreement is a public document. A copy of this Agreement and any information contained in it can be made available to any person by DTSC, CalEPA or the Complainants on request under the Public Records Act or otherwise.
- I. This Agreement shall remain in effect for three (3) years from its Effective Date, except as provided in Section III (A), (B), and (D). Nothing in this Agreement, however, shall affect DTSC's and CalEPA's continuing responsibility to comply with Title VI and the U.S. EPA's implementing regulations for Title VI, and the consideration of relevant civil rights guidance documents, which are not subject to the time limit expressed in this paragraph. This includes compliance with all civil rights requirements in any future permit decision.

- J. The undersigned representatives of each party certify that they are fully authorized to consent to the terms and conditions of this Agreement. Signature on a counterpart or authorization of an electronic signature shall constitute a valid signature.
- K. The Effective Date and date of execution of this Agreement is the date by which all Parties have signed this Agreement. This Agreement can be signed in counterparts.
- L. Notifications in the Agreement shall be provided to the following entities using the following contact information:
  - 1. Notification from DTSC or CalEPA to the Complainants shall be directed to:

Maricela Mares-Alatorre  
 El Pueblo Para El Aire y Agua Limpia  
 de Kettleman City  
 Email: alatmig@netzero.net  
 Phone: (559)816-9298

Marisol F. Aguilar, Esq.  
 Director, Northern Region  
 Community Equity Initiative  
 California Rural Legal Assistance,  
 Inc.  
 Email: maguilar@crla.org  
 Phone: (209) 577-3811

Ilene J. Jacobs, Director of Litigation,  
 California Rural Legal Assistance,  
 Inc.  
 Email: ijacobs@crla.org  
 Phone: (530) 742-7235

Bradley Angel  
 Executive Director  
 Greenaction for Health and  
 Environmental Justice  
 Email: Bradley@greenaction.org and  
 greenaction@greenaction  
 Phone: (415) 447-3904 ext. 102

Tovah R. Trimming  
 Graduate Law Fellow  
 Environmental Law and Justice Clinic  
 Golden Gate University School of Law  
 Email: ttrimming@ggu.edu  
 Phone: (415) 396-5340

Helen Kang  
 Director  
 Environmental Law and Justice Clinic  
 Golden Gate University School of Law  
 Email: hkang@ggu.edu  
 Phone: (415) 442-6693


2. Notification from the Complainants to DTSC or CalEPA shall be directed to:

Matthew Rodriquez  
Secretary for Environmental  
Protection  
Email:  
sectyrodriquez@calepa.ca.gov  
Phone: (916) 324-9214

Barbara Lee  
Director  
Department of Toxic Substances  
Control  
Email:  
DTSCdirectorsoffice@dtsc.ca.gov  
Phone: (916) 322-0504

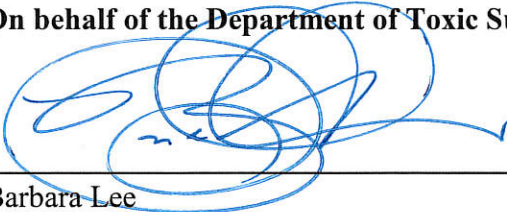


**On behalf of the California Environmental Protection Agency**

  
\_\_\_\_\_  
Matthew Rodriguez

8/9/16  
\_\_\_\_\_  
Date

**On behalf of the Department of Toxic Substances Control**

  
\_\_\_\_\_  
Barbara Lee

8/9/16  
\_\_\_\_\_  
Date

**On behalf of Greenaction for Health and Environmental Justice**

  
\_\_\_\_\_  
Bradley Angel

8/10/16  
\_\_\_\_\_  
Date

**On behalf of El Pueblo Para El Aire y Agua Limpia de Kettleman City**

  
\_\_\_\_\_  
Maricela Mares-Alatorre

8/10/16  
\_\_\_\_\_  
Date

**From:** [BOS Legislation.. \(BOS\)](#)  
**To:** [president@lincolnuca.edu](mailto:president@lincolnuca.edu); [bradley@greenaction.org](mailto:bradley@greenaction.org); [courtney@bldsf.com](mailto:courtney@bldsf.com); [Avril, Nicole \(REC\)](#)  
**Cc:** [GIVNER, JON \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Jonin, Jonas \(CPC\)](#); [Li, Michael \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation.. \(BOS\)](#)  
**Subject:** APPEAL RESPONSE: Appeal of CEQA Certification of Final Environmental Impact Report - Proposed India Basin Mixed-Use Project - Appeal Hearing on September 25, 2018  
**Date:** Friday, September 14, 2018 1:43:37 PM  
**Attachments:** [image001.png](#)

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Good afternoon,

Please find linked below an appeal response letter received by the Office of the Clerk of the Board from Mary Murphy of Gibson, Dunn & Crutcher LLP, representing the co-project sponsor, India Basin Investment LLC, regarding the appeal of the certification of the Final Environmental Impact Report for the proposed India Basin Mixed-Use Project.

[Appeal Response Letter - September 14, 2018](#)

**The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on September 25, 2018.**

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180841](#)

Regards,

**Brent Jalipa**

**Legislative Clerk**

Board of Supervisors - Clerk's Office

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

(415) 554-7712 | Fax: (415) 554-5163

[brent.jalipa@sfgov.org](mailto:brent.jalipa@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

**Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

September 14, 2018

VIA EMAIL AND HAND DELIVERY

Board President Malia Cohen and Members of the  
Board of Supervisors c/o Clerk of the Board of  
Supervisors  
#1 Dr. Carlton B. Goodlett Place  
City Hall, Room #244  
San Francisco, CA 94102-4689

Re: Board of Supervisors September 25, 2018 Meeting Agenda Item: Appeal of California  
Environmental Quality Act (CEQA) Certification of Final Environmental Impact Report  
– India Basin Mixed Use Project

Dear Board President Malia Cohen and Members of the Board of Supervisors,

This firm represents India Basin Investment LLC (“**BUILD**”), the co-project sponsor of the India Basin Mixed Use Project (the “**Project**”). On June 26, 2018, the San Francisco Planning Commission certified the Final Environmental Impact Report (“**FEIR**” or “**EIR**”) for the Project. Mikhail Brodsky, on behalf of the Archimedes Banya SF and 748 Innes Ave. HOA (collectively, the “**Banya**”), filed an appeal of the Certification on August 23, 2018, and Bradley Angel, on behalf of Greenaction for Health & Environmental Justice (“**Greenaction**”, and together with the Banya, collectively, “**Appellants**” and each an “**Appellant**”) filed an appeal of the Certification on August 27, 2018. The FEIR meets all the requirements of CEQA: it is adequate, sufficient and complete. Appellants’ objections are entirely without merit. We respectfully request that this Board uphold the certification of the FEIR and reject the appeals.

This letter addresses the primary objections raised by Appellants in their appeal letters. As addressed in detail below, the Appellants do not raise any issues which have not already been addressed in the EIR, including in the Response to Comments (RTC) document, published by the Planning Department on July 11, 2018. The Project consists of a public private partnership between the Recreation and Park Department (“**RPD**”) and BUILD, who are co-project sponsors for the Project (collectively, “**Project Sponsors**”). The Project is a mixed-use development containing an integrated network of new public parks, wetland habitat, and a mixed-use urban village. The Project would include a significant amount of public open space, shoreline improvements, market-rate and affordable residential uses, commercial uses, parking, environmental cleanup and infrastructure development and street improvements.

Board President Malia Cohen and  
Members of the Board of Supervisors  
c/o Clerk of the Board of Supervisors  
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**1. Revisions to the proposed Project in the RTC were adequately analyzed and do not require recirculation of the DEIR.**

The Banya asserts that the FEIR does not comply with CEQA requirements because modifications to the Project between publication of the DEIR and certification of the FEIR were substantial and thus required recirculation of the DEIR. This assertion is incorrect, and recirculation of the DEIR is not required under CEQA.

As thoroughly discussed in RTC Chapter 2, after publication of the DEIR, BUILD initiated revisions to the Project, including the addition of 335 residential units to the 1,240 residential units analyzed in the DEIR. These changes to the development program fit within the previously analyzed building envelopes, and included no changes to the height, width, or length of any buildings. Specifically, the increased residential square footage was accommodated by modifying interior space within the building envelopes previously analyzed in the DEIR, and also by replacement of 66,224 gross square feet (gsf) of commercial use and 50,000-gsf of school use. These revisions to the Project were analyzed in RTC Chapter 2 for each environmental topic, and the RTC concluded that the proposed revisions did not change the analysis, conclusions, or mitigation measures of the DEIR and did not warrant recirculation under CEQA Guidelines Section 15088.5.

Section 15088.5 of the CEQA Guidelines requires recirculation of an EIR when “significant new information” is added to the EIR after publication of the DEIR but before certification of the FEIR. The CEQA Guidelines clarify that new information is not “significant” unless “the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project proponents have declined to implement.”

Section 15088.5 further defines “significant new information” that triggers a requirement for recirculation as including, but not limited to, identification of a new significant impact, a substantial increase in the severity of an impact (unless mitigation is adopted to reduce the impact to a less-than-significant level), or identification of a new feasible alternative or mitigation measure that would lessen the environmental impacts of the proposed project that the project sponsor declines to adopt.

Board President Malia Cohen and  
Members of the Board of Supervisors  
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As discussed in RTC Chapter 2 for each environmental topic, the revisions to the Project would not result in any new significant impacts that were not already identified in the DEIR, and would not substantially increase the severity of any impacts identified in the DEIR. With the exception of Mitigation Measure M-TR-8 “Implement Passenger Loading Strategies for the School,” which would not apply to the revised Project due to the elimination of the school, the same mitigation measures identified in the DEIR would continue to apply to the revised Project. The revisions would not require any new or modified mitigation measures. Therefore, in accordance with the CEQA Guidelines, recirculation of the DEIR is not required.

2. **The potential impacts of the Project on the Archimedes Banya were analyzed in accordance with the requirements of CEQA.**

The Banya asserts that the EIR is not adequate, accurate and objective because it failed to analyze the impact of the Project on the Archimedes Banya building. This assertion is incorrect.

The Archimedes Banya building is located adjacent to the Project site and is not part of the Project site or proposed Project. However, the Archimedes Banya site was analyzed in the DEIR as part of existing conditions under each relevant topic. As noted in those chapters and in RTC Response GC-2, the Banya was considered as an off-site sensitive receptor in the air quality and noise analysis, and the mass of the building was considered in the shadow and wind analysis in addition to other topics in the DEIR. Specifically, Project impacts related to the following topics include the Banya building as an existing adjacent use in Draft EIR: Section 3.2, “Aesthetics”; Section 3.5, “Transportation and Circulation”; Section 3.6, “Noise”; Section 3.7, “Air Quality”; Section 3.9, “Wind”; and Section 3.10, “Shadow,” respectively. The RTC acknowledges that while the Archimedes Banya site was analyzed in the DEIR as part of existing conditions under each relevant topic, the name “Banya” was not included in the DEIR. In response to this and the Banya’s comments to the DEIR, the RTC incorporated text changes to the DEIR Chapter 2.0, “Project Description,” and Section 3.2, “Aesthetics,” identifying the Archimedes Banya building by name. However, as noted in RTC Response AE-1, these changes were include for clarification purposes only, and did not change the analysis or findings in the Draft EIR.

With regard to the Banya’s assertions pertaining to potential aesthetics impacts of the Project on the Banya, the use of the Banya’s rooftop deck, and economic impacts on the Banya business, as noted in RTC Response GC-2, pp. 4-117:

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CEQA, as it is applied in San Francisco, does not require an analysis of private views, shadows on private buildings, or economic considerations as expressed by the commenters. The Draft EIR fully and adequately analyzes the physical environmental effects of the project as they relate to the Banya in the following sections of the Draft EIR: Section 3.2, “Aesthetics”; Section 3.5, “Transportation and Circulation”; Section 3.6, “Noise”; Section 3.7, “Air Quality”; Section 3.9, “Wind”; and Section 3.10, “Shadow.”

In addition, the Archimedes Banya is a private commercial business, not a recreational facility, and as such, not required to be studied as part of the EIR’s assessment of the Project’s impact on recreation. Therefore, Banya’s assertions regarding the failure of the EIR to study the impacts of the Project on the Banya building are without merit.

**3. Appellant Banya’s objections to the merits of the Project do not raise any issues concerning the adequacy or accuracy of the EIR’s analysis.**

The Banya alleges that the EIR was incorrect in its conclusions because the Banya believes that the proposed Project is overly dense, includes building heights incompatible with the neighborhood, did not undergo sufficient community outreach, and will undermine the vitality of an ecologically sensitive area.

The environmental impacts of the Project were thoroughly analyzed in the FEIR, including Section 3.2, “Aesthetics”; Section 3.5, “Transportation and Circulation”; Section 3.6, “Noise”; Section 3.7, “Air Quality”; Section 3.9, “Wind”; and Section 3.10, “Shadow.” With regard to impacts on biological resources, the Project’s impacts on biological resources are described and analyzed in DEIR Section 3.14, “Biological Resources,” pp. 3.14-1 through 3.14-58. The EIR concluded that the impacts of the proposed Project on biological resources would be less than significant with mitigation. In addition, as discussed in DEIR Chapter 2.0, “Project Description,” and in RTC page 4-73, “the BUILD Development would restore a minimum 0.3-acre tidal marsh as improved tidal marsh wetlands. In addition, a minimum 0.48-acre freshwater seasonal wetland would be created and a drainage outfall that currently extends into the Bay would be removed. The seasonal freshwater wetland is being designed in anticipation of sea-level rise to provide future migration opportunities for the lower brackish saltwater wetlands. Collectively, these project components serve to create a living shoreline that is resilient to climate change and sea-level rise,” thus improving the site from existing conditions.

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With regard to public outreach, the Project Sponsors have conducted community outreach in the form of community meetings related to the Project. Such meetings are not required by CEQA and were part of the extensive community outreach and communication on the part of the Project Sponsors. Specifically, BUILD's public engagement has included, but has not been limited to, convening two community working groups, one to discuss the immediate India Basin community's interests and concerns, and the other to discuss the greater Bayview community's interests and concerns. BUILD's community engagement included roughly 125 community meetings, workshops and presentations, including the two working groups noted above, and presentations to neighborhood community groups such as the Bayview Hunters Point CAC, the Hunters Point Shipyard CAC, India Basin Neighborhood Association, and Bayview Residents Improving Their Environment (BRITE).

To the extent the Banya's objections are related to the merits of the Project, these objections do not raise any issues concerning the adequacy or accuracy of the FEIR's analysis of the environmental impacts of the Project. These comments can be considered by the decision-makers as part of their deliberations on the Project, but are not CEQA issues. This consideration is independent of the environmental review process. Accordingly, this claim should be rejected by the Board.

#### **4. The EIR adequately analyzes the potential impacts of hazardous materials.**

Greenaction asserts that the Project should not be approved because hazardous materials testing has not been conducted for the 700 Innes site. In addition, the Banya claims that the EIR is not sufficient as an informational document because the EIR does not adequately analyze the hazardous materials impacts of the proposed Project. These assertions are incorrect and without merit.

As discussed in RTC Response HZ-2 and HZ-3, the EIR thoroughly and adequately analyzes hazardous materials at the entirety of the Project site, including 700 Innes. Environmental testing was completed for the 700 Innes property, along with the other three properties located within the Project site, as summarized in DEIR Section 3.16, "Hazards and Hazardous Materials." Thus, Greenaction's assertion that testing did not occur at 700 Innes is incorrect.

Also as discussed in DEIR Section 3.16, the Project is required to comply with Mitigation Measure M-HZ-2 which requires all of the following: (1) M-HZ-2a requires preparation and implementation of a site mitigation plan for areas above the mean high-water line; (2) Mitigation

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Measure M-HZ-2b requires a nearshore sediment and materials management plan for areas below the mean high-water line; and (3) Mitigation Measure M-HZ-2c which applies to the 900 Innes property only, requires that a remedial action plan be prepared and implemented.

The Project would also be required to comply with the Maher Ordinance for the portions of the Project site properties above the mean high-water line. Compliance with the requirements of the Maher Ordinance may result in additional requirements and controls beyond those specified in Mitigation Measure M-HZ-2a. The Project would also be subject to oversight by various agencies through the Clean Water Act Section 401 water quality certification, Clean Water Act Section 404 permit, River and Harbors Act Section 10 permit, and Bay Coastal Development Commission permit processes for any in-water construction activities, which may result in additional requirements and controls beyond those specific in Mitigation Measure M-HZ-2b.

As discussed in Response HZ-3 of the RTC, implementation of these mitigation measures would protect future residents and visitors of the project from contamination at the project site, by requiring, among other things, contingency plans in the event that unexpected conditions are encountered during construction, including notification of regulatory authorities and response actions, in the unlikely event that radiological materials or other hazardous materials are discovered.

With respect to testing for radiological contamination, Response HZ-2 of the RTC clearly states:

[T]he Technical Memorandum included in Appendix M of the Draft EIR (pp. 4166–4172 of Appendix M) explains the environmental testing rationale for all properties within the project site, and summarizes the extent of radiological contamination at the adjacent Hunters Point Navy Shipyard site. The Technical Memorandum states there were no indications of materials associated with radiological contamination such as radiological debris or sand blast material noted during the subsurface investigations within the project site. In addition, a review of the regulatory documentation of investigations and remediation activities at the nearby areas of Hunters Point Naval Shipyard have uncovered no evidence that radiological contamination has migrated to or threatens the project site. The Technical Memorandum concludes that radiological testing at the project site is not required. This conclusion is based on available information, regulatory guidance, and opinions of professional engineers who



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performed the environmental assessments of the properties and determined that radiation issues do not raise a significant potential environmental concern.

Therefore, Appellants assertions that the FEIR's analysis of hazardous materials is inadequate are without merit and should be rejected.

**5. The EIR adequately analyzes Sea Level Rise impacts of the proposed Project.**

Greenaction asserts that the DEIR fails to discuss or evaluate the impact sea-level rise will have on the Project. This assertion is incorrect.

The potential impacts of sea-level rise on the Project are discussed in RTC Response HY-1 and DEIR Section 3.15, "Water Quality and Hydrology," under Impact HY-6, beginning on p. 3.15-52. The analysis in those sections of the RTC and DEIR is predicated upon the California Supreme Court holding in *California Building Industry Association v. Bay Area Air Quality Management District* (62 Cal.4th 369), decided in 2015, which held that CEQA does not generally require lead agencies to consider how existing hazards or conditions might affect a project's users or residents, except where the project would exacerbate an existing environmental hazard. Accordingly, the analysis included in the DEIR and the RTC regarding sea level rise evaluates whether the Project would exacerbate existing or future flood hazards in the Project site. The impact would be considered significant if the Project were to exacerbate future flood hazards by increasing the frequency or severity of flooding or cause flooding to occur in an area that would not be subject to flooding without the Project.

The DEIR analysis identifies uninhabited facilities that would be inundated by sea level rise by 2050, including "the pier, the dock/platform, the beach, portions of some pedestrian paths, and a portion of the Marineway path." DEIR p. 3.15-58. Furthermore, "the kayak concessions, portions of the Bay Trail near the southern shoreline, the parking area, a larger portion of the Marineway, and additional portions of the pedestrian paths would be temporarily inundated," by 2100 as discussed on DEIR p. 3.15-59. The Draft EIR on p. 3.15-60 concludes that no inhabited structures at the 700 Innes property would be inundated by sea-level rise under any of the scenarios studied.

The DEIR at page 3.15-58 correctly concludes that:

[A]lthough some project features at the project site properties may be inundated by sea-level rise, the proposed project or variant would not

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exacerbate the frequency or severity of flooding or cause flooding in areas that otherwise would not be subject to flooding without the project.

Therefore, the operational impact of the Project would be less than significant.

As discussed in the DEIR and the RTC, the Project has been innovatively designed to adapt to the projected Sea Level Rise, so as to result in the least possible impact to the future residents and users. Specifically, the Project has been adaptively sited and designed so that (i) sea-level rise will not affect the inhabited facilities, and (ii) sea-level rise would not affect the planned uses of the uninhabited facilities over their 50-year design life. However, beyond the 50-year design life, future Project designs would need to be incorporated to address anticipated impacts of sea-level rise. Financing and funding of projects is outside the purview of CEQA and therefore is not required to be addressed in the FEIR. However, as set forth in the Development Agreement for the Project, the Project would provide funding sources through the formation of a Community Facilities (Special Tax) District that the City will use to implement protections along the Southern Bayfront shoreline from future sea level rise, including any necessary future design modifications.

6. **The Statement of Overriding Considerations is proper, legal and complies with CEQA requirements.**

Greenaction alleges that the Statement of Overriding Considerations is improper and illegal. This assertion is incorrect and without merit.

The FEIR found that the Project would result in significant and unavoidable project and cumulative impacts, including significant and unavoidable project and cumulative air quality impacts with mitigation. However, significant and unavoidable impact conclusions do not require disapproval or rejection of the Project or make approval of such a Project illegal. Rather, CEQA Guidelines Section 15093 and Public Resources Code Section 21081(b) requires that when an agency decides to approve a project that will cause one or more significant environmental effects, the lead agency must prepare a Statement of Overriding Considerations which reflects the ultimate balancing of competing public objectives (including environmental, legal, technical, social, and economic factors). The determination regarding whether to adopt a statement of overriding considerations is made by the decision-makers. In compliance with CEQA, the Statement of Overriding Considerations for the Project was prepared by the Planning Department for consideration by the City decision-makers as part of their deliberations on the merits of the Project and whether to approve, modify, or disapprove the Project. Based on this balancing of

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competing public objectives, the Planning Commission approved the Project and adopted the Statement of Overriding Considerations at its hearing on July 26, 2018, in compliance with all applicable CEQA requirements.

In addition, as discussed in DEIR Section 3.7 “Air Quality” and RTC Response AQ-1, the Project is required to comply with all identified feasible mitigation measures that reduce the air quality impacts of the Project during construction, operation, overlapping construction and operation, and cumulatively. Specifically, the Project is required to comply with Mitigation Measures M-AQ-1a, “Minimize Off-Road Construction Equipment Emissions,” M-AQ-1b, “Minimize On-Road Construction Equipment Emissions,” M-AQ-1c, “Utilize Best Available Control Technology for In-Water Construction Equipment,” M-AQ-1e, “Implement Best Available Control Technology for Operational Diesel Generators,” and M-AQ-1f, “Prepare and Implement Transportation Demand Management.” These mitigation measures would directly reduce air quality impacts of the Project during construction, operation and overlapping construction and operation. In addition, the Project is required to comply with Mitigation Measure M-AQ-1d, “Offset Emissions for Construction and Operational Ozone Precursor (NOX and ROG) Emissions,” which addresses regional emissions into the air basin through payment of an offset fee or funding or implementation of a specific offset project.

As such, the Project is required to comply with a series of robust mitigation measures that have been identified to lessen the air quality impacts of the proposed Project, including both on-site mitigation measures and payment to the BAAQMD, which represent all feasible measures available to lessen the Project’s air quality impacts.

7. **The Project will not result in any significant population and housing impacts.**

The Appellants assert that the Project will result in significant Population and Housing impacts, including gentrification, and dispute the EIR’s conclusion that the Project will not induce substantial population growth. Appellants’ assertions are incorrect and not supported by substantial evidence.

As discussed in RTC Response PH-4, the DEIR concludes that the Project would result in direct and indirect population growth that is already planned for in the Bayview Hunters Point Area Plan. Therefore, the Project is consistent with the City’s planned future for the Project area, and thus would result in a less-than-significant population and housing impact. Similarly, the FEIR concluded that development of the Project under the cumulative scenario would also have a less-

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than-significant impact related to population and housing because development of cumulative projects would be consistent with population and housing projections in the 2014 Housing Element of the General Plan, and would furthermore help the City meet its share of ABAG's Regional Housing Needs Assessment. Therefore, the RTC correctly concludes on p. 4-18:

[A]lthough the proposed project or variant would cause the study area's population to increase, growth in this area has long been the subject of many planning activities, including the Bayview Hunters Point Area Plan. In summary, the direct population and housing growth provided as part of the project aligns with the City's effort to create a vibrant high-density, mixed-use neighborhood along the Bayview shoreline. Therefore, impacts on population and housing were considered less than significant in the EIR and further analysis is not required.

Secondary effects of population growth are analyzed in their respective sections of the Draft EIR, including Section 3.5, "Transportation and Circulation"; Section 3.6, "Noise"; Section 3.7, "Air Quality"; Section 3.11, "Recreation"; Section 3.12, "Utilities and Service Systems"; and Section 3.13, "Public Services."

With respect to the Appellants assertion that the Project will result in gentrification, gentrification and displacement that could result from the development of Project are socioeconomic issues rather than physical environmental issues. Specifically, CEQA Guidelines Section 15131(a) states that social or economic impacts alone shall not be treated as significant effects on the environment. Evidence of social or economic impacts (e.g., rising property values, increasing rents, changing neighborhood demographics) that do not contribute to, or are not caused by, physical impacts on the environment are not substantial evidence of a significant effect on the environment. In short, social and economic effects are only applicable under CEQA if they would result in or are caused by an adverse physical impact on the environment.

The Project will provide housing consistent with regional growth projections, and will also provide a significant amount of affordable housing. In accordance with the Project's Development Agreement, the affordable housing plan will facilitate development of 25% of all residential units built within the Project site as below market rate units, inclusionary units or in lieu fee units. Therefore, by accommodating housing consistent with regional growth projections and, in particular, by increasing the supply of housing on the project site from the two parcels

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containing residences currently located on the property, the Project would provide some relief from the housing market pressures on the City's existing housing stock.

Therefore, the Project would not result in any significant impacts related to population and housing, and would not result in any gentrification or displacement.

**8. The City has fully complied with its obligations under CEQA regarding language access.**

Greenaction alleges that the City's failure to translate notices and key documents violates civil rights laws and illegally excludes the public from civic engagement. This assertion is incorrect. As discussed in RTC, the City has fully complied with its obligations under CEQA regarding language access. CEQA itself does not require language access services to be provided. As discussed in RTC Response GC-1 on p. 4-110:

In terms of the formal CEQA process, CEQA provides that “[p]ublic participation is an essential part of the CEQA process” and that agencies “should include provisions in [their] CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency’s activities.” 14 California Code of Regulations Section 15201. Although meaningful public participation is an essential part of the CEQA process, CEQA itself does not require agencies to provide language access services. In addition, Public Resources Code Section 21083.1 prohibits the interpretation of CEQA in any manner that imposes additional procedural or substantive requirements beyond those explicitly stated in CEQA. (Public Resources Code Section 21083.1, adopted 1993.) Therefore, imposing language access services as a requirement of CEQA is explicitly prohibited by the statute, because such services are not explicitly required under CEQA.

Notwithstanding the fact that CEQA does not require language access services, the City and the Project Sponsors have exceeded legal requirements in order to enhance public participation and to respond to requests made by Greenaction. Specifically, the RTC described on page 4-111:

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The Planning Department acknowledged its failure to provide the requested translation in its letter dated September 8, 2017 (see the relevant Planning Department letter regarding language access attached to the Greenaction letter in Appendix A)—an unintentional oversight for which the Planning Department expressed deep regret. The Planning Department has since published Chinese, Spanish, and Tagalog translations of the Notice of Availability of the Draft EIR, and the project sponsors have also made available translations of the Executive Summary of the Draft EIR that are available at the following website: <http://sf-planning.org/environmental-impact-reports-negative-declarations>. Accordingly, limited- and non-English-speaking individuals have had meaningful opportunity to participate in the CEQA process and provide comments on the Draft EIR, either in writing or in person during the public scoping meeting on June 19, 2016, and the Draft EIR hearing on October 19, 2017. Such individuals will also have other opportunities to comment before certification of the Final EIR and at additional public hearings on the approvals for the project. Furthermore, individuals can request interpreters be present at any public meetings and hearings if they require them and make such requests to the Planning Department ahead of time. Therefore, the record reflects that limited- and non-English-speaking individuals have been provided opportunities for meaningful involvement in the CEQA process and that no violation of CEQA has thus occurred.

The translations of the Executive Summary were commissioned by BUILD at their expense, and went beyond any language access requirements applicable under local or state law. The Chinese and Spanish translations of the Executive Summary (which included the table of potential impacts and proposed mitigation measures) were also available on the Planning Department website for ease of public access. In addition, the Planning Department, with the help of BUILD translated notices of the July 26, 2018, EIR certification hearing for the Project into Tagalog in addition to Spanish and Chinese. Those translated notices were also available on the Planning Department's website for ease of access. Therefore, Greenaction's assertion that the City "refused to translate key notices and key documents into languages spoken by many residents of Bayview Hunters Point" is incorrect and unsupported by evidence in the record. To the contrary, upon being made aware of its unintentional oversight in failing to provide the initially requested translations, the City as well as the Project Sponsors provided enhanced translation access which exceeds the applicable legal requirements to provide translations to the public, including the voluntary

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translations of the Executive Summary. The record reflects both Greenaction's correspondence with the Planning Department regarding language access services in connection with the Project, and the Planning Department's and Project Sponsor's significant efforts to address the concerns Greenaction raised. The requested translations were provided prior to the public hearing on the DEIR and the certification of the FEIR, both providing opportunity for meaningful community involvement and public comment.

**Conclusion**

In summary, the record demonstrates that the EIR is a very thorough and complete analysis of the India Basin Mixed Use Project and clearly fulfills CEQA's goal of providing decision makers information enabling them to make a decision that intelligently takes account of environmental consequences (CEQA Guidelines Section 15151). The objections of both Appellants are without merit. We therefore respectfully request that this Board uphold the certification of the EIR by the Planning Commission and deny this appeal.

Very truly yours,



Mary G. Murphy

INDIA BASIN NEIGHBORHOOD ASSOCIATION

180841-  
BO-S-11  
@180841-  
@180841-  
@180841-

September 17, 2018

RE: Files: 180841, 180680, 180816

BOARDS OF SUPERVISORS  
SAN FRANCISCO

2018 SEP 19 PM 2:45

BY AK



Advocating for  
our community  
since 1994

Angela Calvillo, Clerk of the Board  
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Dear: Ms. Calvillo,

The India Basin Neighborhood Association (IBNA) supports the Build, Inc / India Basin Investment, LLC (Developer) 700 Innes project to revitalize the India Basin community by creating a 21st century village for all San Francisco to enjoy. This support is based on our shared goals:

- Comprehensive Planning
- Economic Success
- Environmental Protections
- Transportation Improvements
- Recreation Opportunities

IBNA created the above goals in its 2010 Community Vision for the India Basin waterfront, which is considered a starting document for Developer. IBNA has continued involvement in fashioning this addition to our community by meeting regularly for the last four years to provide input to Developer and participating in the India Basin Parks Task Force.

IBNA support of the 700 Innes project is subject to the IBNA Board of Directors' Resolution of May 6, 2017, *Establishing Public Benefit Criteria for Supporting Proposed Height Increases in India Basin Neighborhood*, which established clear guidelines surrounding any proposed building height increases in certain limited situations due to the clear public benefit conferred by a particular development, and not to be precedent setting for the entire neighborhood. It is also subject to the IBNA and Developer agreement signed July 24, 2018, pledging to continue to work together on both interim and permanent community benefits at the 700 Innes project and throughout the neighborhood. Please contact IBNA for document review.

Advocating for our community since 1994, the India Basin Neighborhood Association is a membership organization of residents, local business owners and workers, and friends of the community who support the IBNA mission to "preserve the maritime history, natural beauty, diverse character and unique ambiance of the vibrant mixed-use neighborhood of India Basin through community organizing." IBNA is managed by an all-volunteer Board of Directors elected by members.

IBNA looks forward to welcoming new neighbors. The hope is that the 700 Innes project, together with efforts by various city departments to plan and execute long-needed improvements, will make this a more livable, walkable, safe community where residents and visitors can all enjoy the history, natural beauty, and stunning views – and find the recreation, shopping, transit, city service, education, and entertainment amenities other San Francisco neighborhoods enjoy.

*Jill Fox*

Jill Fox, Chair

Board of  
Directors

- Jill Fox, Chair
- Allen Frazier
- Michael Hamman
- Sean Karlin
- Richard Laufman
- Monica Padilla-Stemmelen

PO Box 880953, San Francisco, CA 94188

www.INDIABASIN.org

3246



**From:** [BOS Legislation, \(BOS\)](#)  
**To:** [president@lincolnuca.edu](mailto:president@lincolnuca.edu); [bradley@greenaction.org](mailto:bradley@greenaction.org); [courtney@bldsf.com](mailto:courtney@bldsf.com); [Avril, Nicole \(REC\)](#)  
**Cc:** [GIVNER, JON \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Li, Michael \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)  
**Subject:** HEARING NOTICE: Appeal of CEQA Certification of Final Environmental Impact Report - Proposed India Basin Mixed-Use Project - Appeal Hearing on September 25, 2018  
**Date:** Tuesday, September 11, 2018 10:58:48 AM  
**Attachments:** [image001.png](#)

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Greetings,

The Office of the Clerk of the Board has scheduled a hearing for Special Order before the Board of Supervisors on **September 25, 2018, at 3:00 p.m.**, to hear an appeal of the certification of the Final Environmental Impact Report for the proposed India Basin Mixed-Use Project.

**Please find the following link to the hearing notice for the matter.**

[Hearing Notice - September 11, 2018](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180841](#)

Regards,

**Lisa Lew**  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

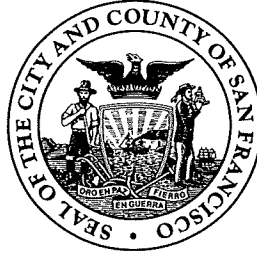


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***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

### BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:


**Date:** Tuesday, September 25, 2018

**Time:** 3:00 p.m.

**Location:** Legislative Chamber, City Hall, Room 250  
1 Dr. Carlton B. Goodlett, Place, San Francisco, CA 94102

**Subject:** **File No. 180841.** Hearing of persons interested in or objecting to the certification of a Final Environmental Impact Report for a proposed project at 700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park, identified in Planning Case No. 2014-002541ENV, issued by the Planning Commission through Motion No. 20248, dated July 26, 2018; to develop about 29.26 undeveloped acres resulting in approximately 1,575 residential units, 209,000 gross square feet of nonresidential use, up to 1,800 parking spaces, 1,575 bicycle parking spaces, 15.5 acres of new and improved publicly accessible open space, new streets and other public realm improvements; and a Recreation and Parks Department component making improvements to the 900 Innes, India Basin open space, and India Basin shoreline park properties, including enhancing existing and developing new open space and recreation facilities totaling about 8.98 acres within the M-1 (Light Industrial), M-2 (Heavy Industrial), NC-2 (Small-Scale Neighborhood Commercial), and P (Public) use districts and 40-X and OS (Open Space) Height and Bulk Districts. (District 10) (Appellants: Mikhail Brodsky, on behalf of Archimedes Banya SF and 748 Innes Avenue HOA; Bradley Angel, for Greenaction for Health and Environmental Justice) (Filed August 23, 2018, and August 27, 2018, respectively)

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, September 21, 2018.

  
Angela Calvillo  
Clerk of the Board

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

**PROOF OF MAILING**

Legislative File No. 180841

Description of Items: Hearing - Appeal of Final Environmental Impact Report Certification - India Basin Mixed-Use Project - 174 Notices Mailed

I, Lisa Lew, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: September 11, 2018

Time: 10:45 a.m.

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

## Lew, Lisa (BOS)

---

**From:** BOS Legislation, (BOS)  
**Sent:** Thursday, August 30, 2018 3:35 PM  
**To:** Ko, Yvonne (CPC)  
**Cc:** BOS Legislation, (BOS); BOS-Operations  
**Subject:** APPEAL CHECK PICKUP: Appeal of CEQA Certification of Final Environmental Impact Report - Proposed India Basin Mixed-Use Project - Appeal Hearing on September 25, 2018

**Categories:** 180841

Hi Yvonne,

Our office have two appeal checks for the proposed India Basin Mixed-Use Project appeal that are ready to be picked up here in the Clerk's Office weekdays from 8 a.m. through 5 p.m.

Only one of the appellants, Greenaction for Health and Environmental Justice, have submitted an application for an appeal fee waiver which will be included with the appeals checks.

Thank you.

### Lisa Lew

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



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**From:** Lew, Lisa (BOS)

**Sent:** Thursday, August 30, 2018 3:16 PM

**To:** [president@lincolnuca.edu](mailto:president@lincolnuca.edu); [bradley@greenaction.org](mailto:bradley@greenaction.org); [courtney@bldsf.com](mailto:courtney@bldsf.com); Avril, Nicole (REC)  
<[nicole.avril@sfgov.org](mailto:nicole.avril@sfgov.org)>

**Cc:** GIVNER, JON (CAT) <[Jon.Givner@sfcityatty.org](mailto:Jon.Givner@sfcityatty.org)>; STACY, KATE (CAT) <[Kate.Stacy@sfcityatty.org](mailto:Kate.Stacy@sfcityatty.org)>; JENSEN, KRISTEN (CAT) <[Kristen.Jensen@sfcityatty.org](mailto:Kristen.Jensen@sfcityatty.org)>; Rahaim, John (CPC) <[john.rahaim@sfgov.org](mailto:john.rahaim@sfgov.org)>; Sanchez, Scott (CPC) <[scott.sanchez@sfgov.org](mailto:scott.sanchez@sfgov.org)>; Gibson, Lisa (CPC) <[lisa.gibson@sfgov.org](mailto:lisa.gibson@sfgov.org)>; Jain, Devyani (CPC) <[devyani.jain@sfgov.org](mailto:devyani.jain@sfgov.org)>; Sider, Dan (CPC) <[dan.sider@sfgov.org](mailto:dan.sider@sfgov.org)>; Rodgers, AnMarie (CPC) <[anmarie.rodgers@sfgov.org](mailto:anmarie.rodgers@sfgov.org)>; Starr, Aaron (CPC) <[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org)>; Navarrete, Joy (CPC) <[joy.navarrete@sfgov.org](mailto:joy.navarrete@sfgov.org)>; Lynch, Laura (CPC) <[laura.lynch@sfgov.org](mailto:laura.lynch@sfgov.org)>; Ionin, Jonas (CPC) <[jonas.ionin@sfgov.org](mailto:jonas.ionin@sfgov.org)>; Li, Michael (CPC) <[michael.j.li@sfgov.org](mailto:michael.j.li@sfgov.org)>; Calvillo, Angela (BOS) <[angela.calvillo@sfgov.org](mailto:angela.calvillo@sfgov.org)>; Somera, Alisa (BOS) <[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)>; BOS-Supervisors <[bos-supervisors@sfgov.org](mailto:bos-supervisors@sfgov.org)>; BOS-Legislative Aides <[bos-legislative\\_aides@sfgov.org](mailto:bos-legislative_aides@sfgov.org)>; BOS Legislation, (BOS) <[bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)>

**Subject:** FW: Appeal of CEQA Certification of Final Environmental Impact Report - Proposed India Basin Mixed-Use Project - Appeal Hearing on September 25, 2018

BOARD of SUPERVISORS



City Hall  
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San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

August 30, 2018

**File Nos. 180841-180844**  
**Planning Case No. 2014-002541ENV**

Received from the Board of Supervisors Clerk's Office two checks, in the amount of Five Hundred Ninety Seven Dollars (\$597) each, representing the filing fee paid by the following for the appeal of the certification of the Final Environmental Impact Report under CEQA for the proposed India Basin Mixed-Use Project:

- Mikhail Brodsky, on behalf of Archimedes Banya SF and 748 Innes Ave. HOA
- Bradley Angel for Greenaction for Health and Environmental Justice

**Planning Department**

**By:**

*Tony*

Print Name

*[Handwritten Signature]*

Signature and Date

*8/31/18*

## Lew, Lisa (BOS)


---

**From:** Lew, Lisa (BOS)  
**Sent:** Thursday, August 30, 2018 3:16 PM  
**To:** president@lincolnuca.edu; bradley@greenaction.org; courtney@bldsf.com; Avril, Nicole (REC)  
**Cc:** GIVNER, JON (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Sider, Dan (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Navarrete, Joy (CPC); Lynch, Laura (CPC); Ionin, Jonas (CPC); Li, Michael (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)  
**Subject:** FW: Appeal of CEQA Certification of Final Environmental Impact Report - Proposed India Basin Mixed-Use Project - Appeal Hearing on September 25, 2018  
**Categories:** 180841

Apologies for the multiple emails, a few contacts were left off from the previous email.

### Lisa Lew

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

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---

**From:** BOS Legislation, (BOS)  
**Sent:** Thursday, August 30, 2018 3:05 PM  
**To:** 'president@lincolnuca.edu' <president@lincolnuca.edu>; 'bradley@greenaction.org' <bradley@greenaction.org>; 'courtney@bldsf.com' <courtney@bldsf.com>; Avril, Nicole (REC) <nicole.avril@sfgov.org>  
**Cc:** GIVNER, JON (CAT) <Jon.Givner@sfcityatty.org>; STACY, KATE (CAT) <Kate.Stacy@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Jain, Devyani (CPC) <devyani.jain@sfgov.org>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Rodgers, AnMarie (CPC) <anmarie.rodgers@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lynch, Laura (CPC) <laura.lynch@sfgov.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; Li, Michael (CPC) <michael.j.li@sfgov.org>  
**Subject:** Appeal of CEQA Certification of Final Environmental Impact Report - Proposed India Basin Mixed-Use Project - Appeal Hearing on September 25, 2018

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **September 25, 2018, at 3:00 p.m.** Please find linked below letters of appeal filed for the proposed India Basin Mixed-Use Project, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Appeal Letter - Archimedes Banya SF and 748 Innes Avenue HOA - August 23, 2018](#)

[Appeal Letter - Greenaction for Health and Environmental Justice - August 27, 2018](#)

[Planning Department Memo - August 29, 2018](#)

[Clerk of the Board Letter - August 30, 2018](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180841](#)

Regards,

**Lisa Lew**

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



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San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

August 30, 2018

Mr. Mikhail Brodsky  
President of Archimedes Banya SF and 748 Innes Ave. HOA  
1801 San Lorenzo Avenue  
Berkeley, CA 94707

Mr. Bradley Angel  
Executive Director of Greenaction for Health and Environmental Justice  
315 Sutter Street, 2nd Floor  
San Francisco, CA 94108

**Subject: File No. 180841 - Appeal of California Environmental Quality Act (CEQA)  
Certification of Final Environmental Impact Report - India Basin Mixed-Use  
Project**

Dear Mr. Brodsky, and Mr. Angel,

The Office of the Clerk of the Board is in receipt of a memorandum dated August 29, 2018, from the Planning Department regarding their determination on the timeliness of your filing of appeal of the California Environmental Quality Act certification of the Final Environmental Impact Report for the proposed India Basin Mixed-Use Project.

The Planning Department has determined that your appeals were filed in a timely manner.

The appeal filing period closed on Monday, August 27, 2018. Pursuant to Administrative Code, Section 31.16(b)(4), the appeals will be consolidated so that they are heard simultaneously and a hearing date has been scheduled for **Tuesday, September 25, 2018, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by noon:

**20 days prior to the hearing:** names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and

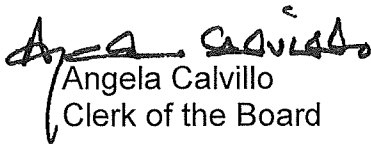
**11 days prior to the hearing:** any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to [bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)) and two copies of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, Lisa Lew at (415) 554-7718, and Jocelyn Wong at (415) 554-7702.

Very truly yours,

  
Angela Calvillo  
Clerk of the Board

c: Jon Givner, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Kristen Jensen, Deputy City Attorney  
John Rahaim, Planning Director, Planning Department  
Scott Sanchez, Zoning Administrator, Planning Department  
Lisa Gibson, Environmental Review Officer, Planning Department  
Devyani Jain, Deputy Environmental Review Officer, Planning Department  
Dan Sider, Director of Executive Programs  
AnMarie Rodgers, Director of Citywide Planning, Planning Department  
Aaron Starr, Manager of Legislative Affairs, Planning Department  
Joy Navarrete, Environmental Planning, Planning Department  
Laura Lynch, Environmental Planning, Planning Department  
Jonas Ionin, Director of Commission Affairs, Planning Department  
Michael Li, Staff Contact, Planning Department  
Courtney Pash, Project Sponsor, BUILD  
Nicole Avril, Project Sponsor, Recreation and Parks Department



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** August 29, 2018  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Devyani Jain, Deputy Environmental Review Officer  
**RE:** Appeal Timeliness Determination – India Basin Mixed-Use Project, Planning Department Case No. 2014-00254ENV

1650 Mission St.  
 Suite 400  
 San Francisco,  
 CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
 Information:  
**415.558.6377**

Two appeals of the certification of the Final Environmental Impact Report (FEIR) for the India Basin Mixed Use Project were filed with the Office of the Clerk of the Board of Supervisors by the following parties:

- Mr. Mikhail Brodsky, President of Archimedes Banya SF and 748 Innes Ave. HOA (Banya) (appeal filed on August 23, 2018) and
- Mr. Bradley Angel, Executive Director of Greenaction for Health and Environmental Justice (Greenaction) (appeal filed on August 27, 2018).

The above parties are hereby collectively referred to as the “Appellants.” As explained below, the Planning Department finds these two appeals to be timely filed.

Date of Approval Action	30 Days after Approval Action	Appeal Deadline (Must Be Day Clerk of Board’s Office Is Open)	Date of Appeal Filing	Timely?
July 26, 2018 (EIR certification)	Saturday, August 25, 2018	Monday, August 27, 2018	Banya filed appeal on August 23, 2018	Yes
			Greenaction filed appeal on August 27, 2018	Yes

**Timeline:** On September 13, 2017, the Planning Department published the Draft Environmental Impact Report (DEIR) for the India Basin Mixed-Use Project with a public review and comment period from September 14, 2017 through October 30, 2017. On October 19, 2017, the Planning Commission held a duly advertised public hearing on the DEIR. The Responses to Comments document was issued on July 11, 2018. On July 26, 2018, the Planning Commission held a duly noticed hearing to consider certification of the India Basin Mixed-Use Project FEIR. The Planning Commission certified the India Basin Mixed-Use Project FEIR on July 26, 2018.

**Appeal Deadline:** Sections 31.16(a) and (c) of the San Francisco Administrative Code state that any person or entity that has submitted comments to the Planning Commission or the Environmental Review Officer on a DEIR, either in writing during the public review period, or orally or in writing at a public hearing on the EIR, may appeal the

Planning Commission's certification of the FEIR up to 30 days after the certification of the FEIR. The 30<sup>th</sup> day after the certification of the FEIR was August 25, 2018. The next date when the Office of the Clerk of the Board was open was Monday, August 27, 2018 (Appeal Deadline).

**Appellant Standing:** Both Appellants issued written and oral comments on the DEIR and therefore, the Appellants have standing to appeal the certification of the FEIR.

**Appeal Filing and Timeliness:** Banya filed an appeal on August 23, 2018 and Greenaction filed an appeal on August 27, 2018. Both appeals were filed prior to the Appeal Deadline and therefore, the appeals are considered timely.

## Lew, Lisa (BOS)

---

**From:** BOS Legislation, (BOS)  
**Sent:** Monday, August 27, 2018 3:09 PM  
**To:** Rahaim, John (CPC)  
**Cc:** GIVNER, JON (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lynch, Laura (CPC); Sider, Dan (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); Ionin, Jonas (CPC); Li, Michael (CPC); BOS Legislation, (BOS)  
**Subject:** Appeal of CEQA Certification of Final Environmental Impact Report - India Basin Mixed-Use Project  
**Attachments:** Appeal Ltr 082318.pdf; COB Ltr 082718.pdf  
**Categories:** 180841

Dear Director Rahaim,

The Office of the Clerk of the Board is in receipt of an appeal of the CEQA Certification of Final Environmental Impact Report for the India Basin Mixed-Use Project. The appeals were filed by Mikhail Brodsky, on behalf of Archimedes Banya SF and 748 Innes Ave. HOA.

Please find the attached letter of appeal and timely filing determination request letter from the Clerk of the Board.

Kindly review for timely filing determination.

Best regards,

**Jocelyn Wong**

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

T. 415.554.7702 | F. 415.554.5163

[jocelyn.wong@sfgov.org](mailto:jocelyn.wong@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



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## Lew, Lisa (BOS)

---

**From:** BOS Legislation, (BOS)  
**Sent:** Tuesday, August 28, 2018 2:45 PM  
**To:** Rahaim, John (CPC)  
**Cc:** GIVNER, JON (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lynch, Laura (CPC); Sider, Dan (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); Ionin, Jonas (CPC); Li, Michael (CPC); BOS Legislation, (BOS)  
**Subject:** Appeal of CEQA Certification of Final Environmental Impact Report - India Basin Mixed-Use Project  
**Attachments:** Appeal Ltr 082718.pdf; COB Ltr 082818.pdf  
**Categories:** 180841

Dear Director Rahaim,

The Office of the Clerk of the Board is in receipt of an appeal of the CEQA Certification of Final Environmental Impact Report for the India Basin Mixed-Use Project. The appeal was filed by Bradley Angel, for the Greenaction for Health and Environmental Justice.

Please find the attached letter of appeal and timely filing determination request letter from the Clerk of the Board.

Kindly review for timely filing determination.

Regards,

**Lisa Lew**

San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102  
T 415-554-7718 | F 415-554-5163  
[lisa.lew@sfgov.org](mailto:lisa.lew@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)



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TDD/TTY No. 554-5227

August 27, 2018

To: John Rahaim  
Planning Director

From:  Angela Calvillo  
Clerk of the Board of Supervisors

Subject: **Appeal of California Environmental Quality Act (CEQA) Certification of the Final Environmental Impact Report - India Basin Mixed-Use Project (700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park)**

An appeal of the CEQA Final Environmental Impact Report certification for the India Basin Mixed-Use Project (700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park) was filed with the Office of the Clerk of the Board on August 23, 2018, by Mikhail Brodsky, on behalf of Archimedes Banya SF and 748 Innes Ave. HOA.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Brent Jalipa, Legislative Clerk, at (415) 554-7712, Lisa Lew, Legislative Clerk, at (415) 554-7718, or Jocelyn Wong, Legislative Clerk, at (415) 554-7702.

c: Jon Givner, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Kristen Jensen, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Lisa Gibson, Environmental Review Officer, Planning Department  
Devyani Jain, Deputy Environmental Review Officer, Planning Department  
Joy Navarrete, Environmental Planning, Planning Department  
Laura Lynch, Environmental Planning, Planning Department  
Dan Sider, Director of Executive Programs, Planning Department  
AnMarie Rodgers, Director of Citywide Planning, Planning Department  
Aaron Starr, Manager of Legislative Affairs, Planning Department  
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Michael Li, Staff Contact, Planning Department

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TDD/TTY No. 554-5227

August 28, 2018

To: John Rahaim  
Planning Director

From:  Angela Calvillo  
Clerk of the Board of Supervisors

Subject: **Appeal of California Environmental Quality Act (CEQA) Certification of the Final Environmental Impact Report - India Basin Mixed-Use Project (700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park)**

An appeal of the CEQA Final Environmental Impact Report certification for the India Basin Mixed-Use Project (700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park) was filed with the Office of the Clerk of the Board on August 27, 2018, by Bradley Angel, for Greenaction for Health and Environmental Justice.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks, Brent Jalipa, at (415) 554-7712, Lisa Lew, at (415) 554-7718, or Jocelyn Wong, at (415) 554-7702.

c: Jon Givner, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Kristen Jensen, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Lisa Gibson, Environmental Review Officer, Planning Department  
Devyani Jain, Deputy Environmental Review Officer, Planning Department  
Joy Navarrete, Environmental Planning, Planning Department  
Laura Lynch, Environmental Planning, Planning Department  
Dan Sider, Director of Executive Programs, Planning Department  
AnMarie Rodgers, Director of Citywide Planning, Planning Department  
Aaron Starr, Manager of Legislative Affairs, Planning Department  
Jonas Ionin, Director of Commission Affairs, Planning Department  
Michael Li, Staff Contact, Planning Department



# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Appeal of Final Environmental Impact Report Certification - India Basin Mixed-Use Project

The text is listed:

Hearing of persons interested in or objecting to the certification of a Final Environmental Impact Report for a proposed project at 700 Innes Avenue, 900 Innes Avenue, India Basin Open Space, and India Basin Shoreline Park, identified in Planning Case No. 2014-002541ENV, issued by the Planning Commission through Motion No. 20248, dated July 26, 2018; to develop about 29.26 undeveloped acres resulting in approximately 1,575 residential units, 209,000 gross square feet of nonresidential use, up to 1,800 parking spaces, 1,575 bicycle parking spaces, 15.5 acres of new and improved publicly accessible open space, new streets and other public realm improvements; and a Recreation and Parks Department component making improvements to the 900 Innes, India Basin open space, and India Basin shoreline park properties, including enhancing existing and developing new open space and recreation facilities totaling about 8.98 acres within the M-1 (Light Industrial), M-2 (Heavy Industrial), NC-2 (Small-Scale Neighborhood Commercial), and P (Public) use districts and 40-X and OS (Open Space) Height and Bulk Districts. (District 10) (Appellants: Mikhail Brodsky, on behalf of Archimedes Banya SF and 748 Innes Avenue HOA; Bradley Angel, for Greenaction for Health and Environmental Justice) (Filed August 23, 2018, and August 27, 2018,

respectively)

Signature of Sponsoring Supervisor:

*for* *Alisa J. Merwin*

For Clerk's Use Only

180841