

From: [aj](#)
To: [Board of Supervisors, \(BOS\); Wong, Jocelyn \(BOS\); Lew, Lisa \(BOS\)](#)
Subject: For EIR Appeal-- Balboa Reservoir Final SEIR: Not objective, not accurate (file 200804)
Date: Thursday, August 6, 2020 3:42:25 PM

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BOS:

I had submitted Documents 1 through 9, as well as a critique of the Planning Dept Response to Appeal. Those submissions focused on the inadequacy of the SEIR.

Here, I focus on the objectivity the SEIR.

In the build-up to the Iraq War, the head of British Secret Intelligence Service (M16) recorded how the war could be justified to the public. The Downing Street Memo revealed: *"...the intelligence and facts were being fixed around the policy."*

It would be hard to dismiss the parallel to the SEIR.

INITIAL STUDY

Starting with the critically important Initial Study (Appendix B), the central feature of the existing setting of the Reservoir vicinity, City College, has been minimized. Using faulty arguments (*Question a, Question b, Question c*), the Initial Study dismisses the possibility of adverse impacts on City College. In doing so, a thorough assessment of effects on City College had been circumvented.

Another requirement for the Initial Study is: *"An examination of whether the project would be consistent with existing zoning, plans..."* per CCR 15063 (d)(5). Instead of an examination, the Initial Study states:

*The proposed project **would not be obviously inconsistent** with the area plan objectives and policies regarding housing, open space, and connectivity, **but would require Maps 3 and 6 to be amended.***

How objective is that phrasing? Does the Project conform to existing zoning, as had been specified in the existing BPS Area Plan/FEIR? Yes, or no?

It's only "not obviously inconsistent" because the sentence doesn't refer to the substance of the amendments to (zoning) Maps 3 and 6. Amendments to Maps 3 and 6 means rezoning from Public to SUD (which allows for privatization) and increase of height limits from 40X to 78.

The phrasing of the referenced Initial Study sentence is an indication of lack of objectivity.

RESPONSE TO COMMENTS

Examination of Response To Comments will show that the Responses are made to support and defend the Project and to dismiss unfavorable comments. It would be hard to find an instance in which an unfavorable comment is accepted as valid.

Environmental Review is supposed to be an objective process. In actual fact, the Environmental Planning Staff worked OEWD, PUC, Developers worked together as a Team to craft the SEIR.

The following had been submitted to the Planning Commission for their 5/28/2020 meeting and had also been sent to BOS at the time. Please review.

Submitted by:
Alvin Ja, appellant

----- Forwarded Message -----

From: aj <ajahjah@att.net>

To: CPC-Commissions Secretary <commissions.secretary@sfgov.org>; Joel Koppel <joel.koppel@sfgov.org>; Moore Kathrin (CPC) >

Sent: Tuesday, May 26, 2020, 04:22:34 PM PDT

Subject: Balboa Reservoir Final SEIR: Not objective, not accurate

Planning Commission, Land Use & Transportation Committee, BOS, PUC:

Certification requires that the EIR be "adequate, accurate, and objective."

The Final Supplemental EIR fails the requirements of being accurate, and objective.

The two volumes of the Final Supplemental EIR look impressive if judged by heft and size. However, heft and size do not equate to being accurate and objective. Quantity does not equal quality.

NOT OBJECTIVE

The Reservoir Project is sponsored by the Planning Department. Environmental Review has been performed by the Environmental Planning Division of the same Planning Department sponsor. Will the dog bite the hand that feeds it?

The EIR is not objective. The conclusions of the EIR are driven by the desired outcome of facilitating the sponsor's (Planning Dept) Project. Just as for the Iraq War, the "facts" are fixed around the policy. (See below for details)

The Response To Comments consisted entirely of figuring out ways to dismiss unfavorable comments. Comments were not evaluated on their merits, but on how to dismiss them. The AB900 records show that no independent evaluation of comments were done. The Environmental Planning Division worked closely with the OEWD and Avalon Bay to craft appropriately favorable Responses.

NOT ACCURATE

Driven by "facts" being needed to be fixed around the policy, "facts" are not accurate. Examples:

- No significant impact on City College
- Cherry-picking of 220 public parking spaces from the City College TDM Study
- Project will not contribute significantly to Transit Delay
- Cumulative Transit Delay will be significant only after City College's Facilities Master Plan (which is a replacement program)
- CEQA Findings estimates the 17.6 acre parcel's value at \$11.2 million; while a comp shows a 0.3 acre parcel at 16th/Shotwell to be \$10 million. On a per-acre basis, the **Reservoir is a minuscule 1.9% of the 16th Street parcel's value.** How accurate could that be?!

- The EIR concludes that there is no significant impact on City College. How plausible is that?!
- The EIR concludes that there is no significant Transit Delay due to the **new** Project. It concludes that Cumulative Transit Delay will happen only due to City College's future Facilities Master Plan, which consists of **replacement** projects. What the EIR does is **reverse cause and effect.**
- The EIR uses tautological/circular argument in responding to comments on the draft EIR. The method used is:
 - EIR--"A";
 - Comment--not "A" due to xyz;
 - Response To Comment--reiterate "A", **without addressing xyz.**
- The Final EIR has replaced unfavorable data regarding Transit Delay (see TR-4 Transit Delay critique, below)

TRANSIT DELAY

- **SUPPLEMENTAL EIR CONTRADICTS PROGRAM EIR's FINDING OF SIGNIFICANT TRANSIT DELAY**
 - The SEIR concludes that there will less-than-significant impact on transit delay (Impact TR-4) from the Reservoir Project. This directly contradicts the Program EIR's conclusion:

"...ingress...from Lee Avenue [westbound right turn-only ingress to Lee Extension] would result in significant adverse transportation impacts. As a consequence, Access Option #1 is rejected from further consideration as part of the Area Plan. (FEIR, p.191)
- **4-MINUTE THRESHOLD OF SIGNIFICANCE FOR TRANSIT DELAY IS AN UNSUPPORTED ASSERTION, LACKING SUBSTANTIAL EVIDENCE**

- The Final SEIR uses a quantitative threshold of significance of 4-minute Reservoir-related Transit Delay. In other words, Transit Delay is considered insignificant unless the Project contributes 4 minutes of delay to a MUNI line. In the real world of MUNI passengers and operators, a 4-minute delay in a short stretch near the Reservoir is extremely significant.
 - The establishment of a quantitative threshold of significance is required to be based on "substantial evidence." The Final SEIR claims that substantial evidence for the 4-minute threshold of significance is contained in Planning Dept's "Transportation Impact Assessment Guidelines." Contrary to the claim of "substantial evidence", the 4-minute significance criterion contained in the TIA Guidelines is only an assertion, without any evidence whatsoever. The "substantial evidence" for the 4-minute delay significance criterion consists of this one sentence: *"For individual Muni routes, if the project would result in transit delay greater than or equal to four minutes, then it might result in a significant impact."* This one sentence constitutes the entirety of the claimed "substantial evidence" in the TIA Guidelines. This one sentence appears in the body of the TIA Guidelines and in the Appendix I "Public Transit Memorandum." However, repetition of a one-sentence assertion does not constitute "substantial evidence."
 - The 4-minutes late significance threshold only serves as a "Get Out of Jail Free card" for the Project's real-world significant contribution to Transit Delay.
- **REMOVAL OF UNFAVORABLE DATA IN FINAL SEIR**
 - The draft SEIR contained Transit Delay data that was found to be unfavorable to the Project.
 - Kittelson Associates (EIR Transportation Analysis contractor) data from Table 3.B-18 "Transit Delay Analysis" was computed to show Reservoir-related delay of 1 minute 55 seconds for a 7-minute running time route segment--a 27.4% increase over the scheduled 7-minute running time between two 43 Masonic scheduled timepoints. Table 3.B-18 was replaced in the Final SEIR to eliminate the unfavorable Reservoir-related Transit Delay.
 - The draft SEIR assessed Transit Delay for Geneva Avenue between City College Terminal and Balboa Park Station. This segment is travelled by the 8 Bayshore and the 43 Masonic. The data for this segment has been eliminated and Table 3.B-18 has been replaced. The new Table 3.B-18 eliminates the 8 Bayshore from assessment entirely, disappeared! Once again, unfavorable data has been eliminated from the Final SEIR.
- **INADEQUATE MITIGATION MEASURES**
 - The Final SEIR contains three new Transit Delay Mitigation

Measures: 1) Signal timing modifications at Ocean/Brighton, 2) Signal timing modifications at Ocean/**Plymouth** (the Kittelson studies evaluated **Lee**, not Plymouth for signal modification-- sloppiness!), 3) Boarding island for southbound 43 at Frida Kahlo/Ocean.

- These mitigation measures are "finger in the dyke" measures that are incommensurate with the root problem. The fundamental unsolvable problem is the limited roadway network surrounding the landlocked Project. That is why the Balboa Park Area Final Program EIR had determined that a Lee Extension ingress "would result in *significant adverse transportation impacts. As a consequence, Access Option #1 is rejected from further consideration as part of the Area Plan.*"

The Final SEIR is not objective; it is not accurate.

The Final SEIR should not be judged on quantity. It must be judged on quality.

If based on quality, it does not deserve certification.

Please think independently and critically. Don't just be a rubber stamp to Staff.

Sincerely,
Alvin Ja

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