

November 21, 2016

## Advocates for the Environment

A non-profit public-interest law firm  
and environmental advocacy organization



Los Angeles City Council Planning and Land Use Management Committee  
200 North Spring Street  
Los Angeles, CA 90012

Via email to [Holly.Wolcott@lacity.org](mailto:Holly.Wolcott@lacity.org), [Sharon.Dickinson@lacity.org](mailto:Sharon.Dickinson@lacity.org)

re: November 22, 2016 PLUM Committee Meeting, Agenda Item #7, Appeal of  
CEQA Determination for 611 S. Gayley Ave. Project, Case No. ENV-  
2014-1094-MND (related to Case ZA-2014-1095-CU-ZAA-DRB-SPAA-  
SPP-1A)

Dear PLUM Committee:

This letter responds to the change in the Mitigated Negative Declaration (MND) for the above-referenced project (the **Project**). This office represents appellants Steven D. Sann and Stephen Resnick. As a result of my clients' CEQA appeal, the City has revised the MND so that, instead of concluding the Project will potentially have significant greenhouse-gas emissions effects and providing mitigation, the MND now concludes the Project will not have significant greenhouse-gas (GHG) effects and thus requires no GHG mitigation.

The MND purports to justify this conclusion on pages 21 and 22, by reference to the the City's "LA Green Plan," a citywide plan for achieving the City's GHG emissions targets.

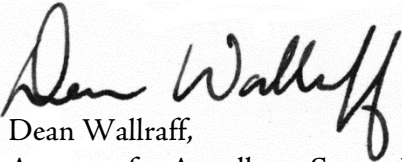
In *Center for Biological Diversity v. Dept. of Fish and Wildlife* (2015) 62 Cal.4th 342 (CBD), the California Supreme Court recently invalidated the GHG analysis for Newhall Ranch. The EIR in that case concluded that the project's emissions would not be significant because they would reduce emissions 31% below a "business as usual" scenario and thus would comply with California's Global Solutions Act of 2006 (AB 32), and the Scoping Plan CARB developed based on AB 32. The Supreme Court invalidated this analysis because the record contained no substantial evidence showing that the project's 31% reduction in GHG emissions was consistent with a statewide goal of reducing GHGs 29%. (CBD, *supra*, 62 Cal.4th at p. 225.)

The City's approach to GHG analysis in this case suffers from the same flaw as the Newhall Ranch EIR in the CBD case: there is no substantial evidence in the record showing that the Project's compliance with the LA Green Plan will make the Project consistent with CARB's AB 32 Scoping Plan, as the MND contends at p. 22. The CBD Court also raised serious doubts about the viability of AB 32's goal of reducing GHGs statewide to 1990 levels by 2020 as a standard: "over time consistency with year 2020 goals will become a less definitive guide..." (*Id.* at p. 228.) This is especially true now that SB 32, signed into law by Governor Brown in September, requires the state to slash GHG emissions to 40% below

1990 levels by 2030. Since the City revised the MND after this standard was adopted, the MND should adhere to the new SB 32 standard.

For this reason, and for other reasons stated in the appeal I filed on August 11, 2016, the City should grant the appeal and allow the Department of City Planning to prepare a Mitigated Negative Declaration that complies with CEQA's requirements.

Sincerely,

A handwritten signature in black ink that reads "Dean Wallraff". The signature is written in a cursive, flowing style.

Dean Wallraff,  
Attorney for Appellants Steven D. Sann and Stephen Resnick

Cc: clients