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August 10, 2018

Planning and Land Use Management (PLUM) Committee
Los Angeles City Council
c/o City Clerk
Los Angeles City Hall
200 North Spring Street, Room 395
Los Angeles, CA 90012

***Via Federal Express and email to:** clerk.plumcommittee@lacity.org,
juliet.oh@lacity.org*

Re: Legado del Mar, LLC residential project
Council File Nos. 18-0686, 18-0686-S1
138, 140, 142 E. Culver Blvd. and 6911, 6913, 6915, and
6917 Vista del Mar; Case Nos. DIR-2012-3537-CDP-DB-
SPR-MEL, TT-70786, ZA-2014-2220-CDP, and ENV-2012-
3536-MND-REC1

Honorable Councilmembers,

On behalf of the Playa del Rey Guardian Society, we submit these short comments in connection with the Legado del Mar residential project (Project), a 4-story, 72-unit residential complex proposed for the intersection of Culver Blvd and Vista del Mar in Playa del Rey. Our letter from the June 28, 2018 City Planning Commission meeting is attached as Exhibit A. Greater details on these Project defects and the myriad violations of the Los Angeles Municipal Code, California Coastal Act, and other governing regulations are contained in the letters submitted by Appellant Kathryn M. Schwertfeger.

The Playa del Rey community has registered concerns with the City regarding the Project's height, massing, obstruction of public ocean views, the impact of groundwater pumping on the Ballona Wetlands, and migration of toxic groundwater plumes through lower Playa del Rey. These concerns were supported by expert reports, providing a fair argument that the Project will have a significant impact on the environment. Therefore, the California Environmental Quality Act (CEQA) requires preparation of an environmental impact report (EIR). Yet the applicant relies upon a mitigated negative declaration (MND).

While the Project has eliminated of one level of underground parking and purports to include mitigation for the potentially hazardous impacts of dewatering, this mitigation is speculative and unenforceable. Instead of disclosing and mitigating visual impacts clearly demonstrated by the City's own March 2015 Visual Impact Study, the MND and staff reports dismiss these impacts altogether. The Project cannot be approved until the City has prepared and certified an adequate EIR.

The Legado Project's environmental review suffers the following defects:

- **Significant, Unmitigated Visual Impacts Violate CEQA and the Coastal Act:** At 58 feet in height (including an architectural element), the Project will wall off expansive *public* views of the beach and Pacific Ocean from Culver and Vista del Mar, and Montreal, adversely affecting pedestrians and drivers. These views are protected by the Coastal Act, the City's General Plan, and the bluffs ordinance. This loss requires preparation of an EIR. (*Ocean View Estates Homeowners Ass'n, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 403.) The City's Venice Dual Force Main EIR admits that even *temporary* obstruction of scenic views here presents a significant impact that requires mitigation. Here, too, an EIR is necessary to analyze alternatives or mitigation measures that would avoid these visual impacts. No evidence has been provided that the wall-like Project could not be reconfigured to retain views across the site or that the building's architectural projection could not be relocated from the center of the coastal view.
- **The Uncertainty of Dewatering Impacts Requires an EIR:** Significant disagreement remains between the Applicant's experts and Appellant's experts about whether the Project will cause the toxic plume beneath the former Del Rey Cleaners to migrate. *Any* migration of the groundwater contamination plume is a significant environmental impact that requires preparation of an EIR. These disagreements among experts require preparation of an EIR. (*County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 814.) The City now claims the Project will not require dewatering, but, based on the City's requirements for Methane Zone and Methane Buffer Zone developments, Dr. Steve Deverel of Hydrofocus concluded the Project *will* require permanent dewatering. If the City had prepared an EIR for this Project, it would be entitled to defer to its experts regarding the potential impacts of Project dewatering on the Ballona Wetlands. No EIR has been prepared.
- **Project's Mitigation for Toxic Plume Migration is Impermissibly Deferred:** The Director's Determination finds that the Project will not have significant

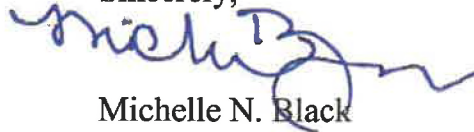
adverse impacts on health or public safety, in reliance on a report prepared by Citadel Environmental Services on March 10, 2015 and on regulatory compliance measure RC-WQ-2. However, the Citadel Report concluded that *more testing was necessary* to design effective mitigation. No slurry wall is actually required, but if the City decides one is needed, it would not even be designed until after the completion of future studies. This violates CEQA. (Guidelines s. 15126.4(a)(1)(B); *Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; Guidelines Section 15126.4(a)(1)(B)); *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92.) When mitigation is deferred, the public and decisionmakers are deprived of the opportunity to evaluate its effectiveness or desirability prior to project approval. This is particularly important with a migrating toxic plume.

- **Regulatory Compliance Measure RC-WQ-2 is Irrelevant:** The measure merely states that the Applicant will comply with the Waste Discharge Requirements of the Los Angeles Region NPDES permit. This permit regulates *discharge*, not dewatering. The Regional Water Quality Control Board has no jurisdiction over the Applicant's non-discharge activities at the Project site.
- **Temporary Dewatering Impacts are Not Analyzed.**
- **A Health Risk Assessment was Not Prepared:** The MND ignores changes to guidance for health hazard assessments that were released by OEHHA in February 2015 and adopted by the Southern California Air Quality Management District (SCAQMD) in June 2015. The new standards are more protective because they incorporate age-sensitivity factors for estimating cancer risk. Thus, the MND may have failed to identify and mitigate significant cancer risks to local residents.
- **The City has Never Responded to Comments Submitted in 2014 by Planner, Sandra Genis.**
- **The Deferred Soils Report Violates CEQA:** The City has stated that a new Soils Report will be required because the previous analysis did not contemplate the Venice Dual Force Main Project. It is irrelevant that the applicant will comply with the Report's conditions, since CEQA requires these conditions be vetted by the public and decision makers prior to Project approval.

Thank you for consideration of these comments. It is our sincere hope that the City fully analyzes the impacts that the Legado Project will have on the beach community of Playa del Rey, its loss of ocean vistas, the Ballona Wetlands, and the contaminated groundwater plume.

We hereby incorporate our comments from the June 28, 2018 City Planning Commission meeting, the comments of Hydrofocus, and all comments submitted by appellant Kathryn M. Schwertfeger.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle N. Black", with a stylized flourish at the end.

Michelle N. Black

Exhibits

1. Letter of Playa del Rey Guardian Society, June 28, 2018, with exhibits

EXHIBIT 1

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June 18, 2018

City Planning Commission
c/o Ms. Juliet Oh, City Planner
200 North Spring Street, Room 721
Los Angeles, CA 90012

Via Federal Express and email to: cpc@lacity.org, juliet.oh@lacity.org

Re: Legado del Mar, LLC residential project, 138, 140, 142 E.
Culver Blvd. and 6911, 6913, 6915, and 6917 Vista del Mar;
Case Nos. DIR-2012-3537-CDP-DB-SPR-MEL, TT-70786,
ZA-2014-2220-CDP, and ENV-2012-3536-MND-REC1

Honorable Commissioners,

On behalf of the Playa del Rey Guardian Society, we submit these comments in connection with the Legado del Mar residential project (Project), a 4-story, 72-unit residential complex proposed for the intersection of Culver Blvd and Vista del Mar in Playa del Rey.

Four years ago, members of the community submitted many, many detailed comments discussing their concerns with the Project's height, massing, obstruction of public ocean views, the impact of groundwater pumping on the Ballona Wetlands, and migration of toxic groundwater plumes through lower Playa del Rey. These comments, several of which were supported by expert reports, requested preparation of an environmental impact report to analyze alternatives to the Project that would reduce or eliminate significant impacts to aesthetics, land use, and hydrology. Consequently, the community is disappointed that, four years later, the only major change to the Project appears to be the elimination of one level of underground parking. Permanent dewatering will be required, but no enforceable or effective mitigation is incorporated. Impacts to views of the Pacific Ocean from Culver Blvd., Vista del Mar, and Montreal Street remain unmitigated. Moreover, the MND fails to recognize impacts declared significant in other City-prepared EIRs or to analyze the cumulative impacts of other, simultaneous development and construction projects being implemented nearby.

An EIR must be prepared prior to lawful approval of the Project.

A. The Project Will Have Significant Visual Impacts that Require Preparation of an EIR.

The proposed Project would be 48 feet tall, 58-feet tall with the inclusion of an extra ten feet proposed for the architectural element. Currently, the site is vacant. Neighboring properties are limited to 30, 35, and 37 feet in height, and most are substantially shorter. Even with fencing, pedestrians walking on Culver and Vista del Mar, as well as drivers on those streets and those above Montreal Street are treated to expansive public views across the site to the Pacific Ocean. These views are protected by the Coastal Act, the City's General Plan, and the bluffs ordinance. The Project's single monolithic structure would block those views. The loss of view is exacerbated by the placement of the architectural projection in the center of these coastal views. A simulation of the lost view was concurrently submitted to the City Planning Commission by Jim Duhe on June 18 and attached here as Exhibit 1. Mr. Duhe has 20 years of experience preparing 3-D models and renderings. This simulation confirms that the loss of public views is a significant and adverse aesthetic impact that requires preparation of an EIR. (*Ocean View Estates Homeowners Ass'n, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 403.)

The public raised concerns about the loss of public views in 2015 and demonstrated the magnitude of these lost views by floating balloons at the height of the Project (*See* comments of Mr. Allen Pacheco). Members of the public further requested that the City prepare an EIR that analyzes alternatives to the Project, its placement, or its configuration, and that proposes mitigation measures to lessen or avoid the loss of public views. To date, this has not occurred.

The City's own Venice Dual Force Main EIR admits that even *temporary* obstruction of scenic views in this location is a significant impact that requires discussion and mitigation in an EIR. Specifically, the EIR determined that *temporary* 6-month use of a crane and tunneling through Playa del Rey will result in a significant, adverse aesthetic impact. (Venice Pumping Plant Dual Force Main EIR Final EIR, p. ES-17, Exhibit 2.) These impacts are a "Significant but temporary [aesthetic impact] from Construction activities" on a scenic vista and a "Significant temporary [aesthetic impact] from construction in Scenic Highway." (*Ibid.*) Here, the Project will cause not temporary, but *permanent*, obstruction of ocean views once the 58-foot-tall Legado Project complete. This is a violation of CEQA, of protections for the Scenic Highway, and of Section 30251 of the California Coastal Act.

Despite concluding that smaller, temporary obstructions to views of the Pacific Ocean are significant, the City's approval letters for the Project conclude the Legado

Project will not significantly affect views. (Director's Determination, March 16, 2018, p. 24.) The Director's Determination admits, "proposed development of the site (with a structure 56 feet in height) would partially limit views of the ocean." (*Ibid.*) The Determination then finds, "the reduced height (as conditioned) would reduce the visual impact to any views of the ocean from the right of way in the bluffs." (*Ibid.*) The Determination never finds that the significant impact of limiting views of the ocean is removed, nor could it. As conditioned, the Project's architectural elements will still reach 58 feet in height. Mr. Duhe's rendering confirms that views from the bluffs will remain more than "partially" obstructed. The City's finding on this issue is not supported by substantial evidence, as required, and cannot be relied upon to approve the Project.

As the Project will block public views of the ocean from public streets, a scenic highway, and public sidewalks, an EIR is necessary to analyze feasible alternatives to the Project or mitigation measures that would lessen or avoid these impacts on cherished public views. No evidence has been provided that the Project could not be reconfigured or designed to retain at least some views across the site. Nor has evidence been presented that the building's architectural projection, which adds ten feet of height, could not be relocated from the center of the public's view of the coast. An EIR must be prepared to analyze the reductions in impact achieved by relocating or shortening the architectural projection.

B. The Disagreement Between Experts Regarding the Impact of Dewatering on the Ballona Wetlands Requires Preparation of an EIR.

There is no disagreement that a groundwater contaminant plume exists underneath the site of the former Del Rey Cleaners site at 310 Culver Blvd. There does, however, appear to be significant disagreement between the Applicant's experts and Appellant's experts about whether the plume will migrate to contaminate the Ballona Wetlands as a result of the Project. *Any* migration of the groundwater contamination plume is a significant environmental impact that requires preparation of an EIR. The experts also disagree regarding whether the dewatering required for the construction and operation of the Project will affect groundwater levels at the wetlands. These disagreements require preparation of an EIR. "The very uncertainty created by the conflicting assertions made by the parties as to the environmental effect ... underscores the necessity of the EIR to substitute some degree of factual certainty for tentative opinion and speculation." (*County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 814.)

Appellants raised concerns about dewatering and contamination of the Ballona Wetlands in their 2014 letters to the City. These concerns were supported by a report prepared by hydrologist, Dr. Steve Deverel of Hydrofocus. In response, the Applicant

submitted a report prepared by TerraCosta Consulting Group. TerraCosta determined the Ballona and Silverado aquifers are not significantly connected, so the Project would not impact the groundwater table at the wetlands.

Since that time, EEC Environmental reported the results of groundwater sampling to the Applicant's attorneys on July 28, 2015. EEC determined, "groundwater flow...appears to be to the northwest," or toward the Ballona Wetlands, and that groundwater samples taken from 200 Culver Blvd. were contaminated with dry cleaning solvents. (Exhibit 3.)

Dr. Deverel has also responded to the TerraCosta Report. (Exhibit 4.) TerraCosta's conclusions regarding groundwater impacts at the Ballona Wetlands were based on the absence of permanent dewatering at the site. However, based on the City's requirements for Methane Zone and Methane Buffer Zone developments, Dr. Deverel concluded the Project *will* require permanent dewatering. (Exhibit 4, p. 3.) Dr. Deverel also noted that TerraCosta assigned hydraulic conductivities based on an equation known to provide large errors. (Exhibit 4, pp. 5-6.) Finally, Dr. Deverel found that the claimed "aquitard" protecting the Ballona Wetlands from interference by Project dewatering will not likely prevent changes to the wetlands. (Exhibit 4, p. 6.) Wetlands impacts remain likely.

If the City had prepared an EIR for this Project, it would be entitled to defer to its experts and the Applicant's experts regarding the potential impacts of Project dewatering on the Ballona Wetlands. As only an MND has been prepared for this Project, however, this disagreement among experts compels preparation of an EIR.

C. The Project's Mitigation is Illusory and Impermissibly Deferred.

Appellant and Appellant's expert, raised concerns that dewatering required for Project construction and ongoing methane mitigation would cause subsurface migration of documented contaminants from the Del Rey Cleaners site toward the Project site. Contamination of the Del Rey Cleaners site by PCE has been confirmed by the Regional Water Quality Control Board, and the site is documented on the Board's GeoTracker website.

The Director's Determination finds that the Project will not have significant adverse impacts on health or public safety, in reliance on a report prepared by Citadel Environmental Services on March 10, 2015 and on regulatory compliance measure RC-WQ-2. (Director's Determination, p. 33.) Neither of these bases is sufficient.

According to the City, the 2015 Citadel Report stated that the Project site was currently devoid of contamination from the plume. A July 2015 EEC Report reported byproducts of dry cleaning solvents in groundwater wells, heading toward the Project site, at levels exceeding the CalEPA maximum contaminant levels. The experts have thus confirmed the Regional Water Quality Control Board's listing of the contaminated site on GeoTracker, and confirmed that the plume is moving toward the Project site.

The Director's Determination relies on Citadel's recommendations to reduce dewatering volume and install a subsurface vertical barrier around the Project site to treat migrating contaminants. (Director's Determination p. 33.) There are several problems with this.

Initially, the CEQA threshold of significance for this impact is whether the plume would migrate *at all*, due to the Project, not whether the plume will reach the Project site from its current locations below 310 and 200 Culver Blvd. While reducing dewatering and installing barriers may reduce this impact, it cannot eliminate it entirely. (See, March 10, 2015 Citadel Report p. 9.)

Additionally, the March 10, 2015 Citadel Report concluded that *more testing was necessary*. Its conclusions and recommendations note, "The data collected from the aquifer test will provide the information, *which is currently deficient*, to construct a model and properly assess the potential of the VOC plume migration..." (March 10, 2015 Citadel Report, p. 12, emphasis added.) CEQA exists to ensure that "the decision maker and the public both know, before the [Project] journey begins, just where the journey will lead, and how much they-and the environment-will have to give up in order to take that journey." (*NRDC v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 271.) If even the experts admit that there has not been enough study to formulate sufficient mitigation measures for Project dewatering, why is the City contemplating approving the Project *now*?

Next, the Project's mitigation measures do not specifically require implementing a subsurface barrier to reduce dewatering impacts on the aquifer, as suggested by Citadel and relied upon by the Director's Determination. The Determination's findings on this issue, therefore, lack the requisite substantial evidence.

If mitigation in the form of the recommended barrier wall is planned after the completion of future studies, this mitigation is impermissibly deferred. "Formulation of mitigation measures should not be deferred until some future time." (Guidelines s. 15126.4(a)(1)(B); *Endangered Habitats League v County of Orange* (2005) 131 Cal. App. 4th 777, 793-94; Guidelines Section 15126.4(a)(1)(B)); *Communities for a Better*

Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 92 [EIR inadequate when mitigation depends “upon management plans that have not yet been formulated, and have not been subject to analysis and review within the EIR.”].) When mitigation is deferred, the public and decisionmakers are deprived of the opportunity to evaluate its effectiveness or desirability prior to project approval. This is particularly important with a migrating toxic plume.

The City’s reliance on regulatory compliance measure RC-WQ-2 is problematic because it has absolutely nothing to do with the migration of the contaminant plume. RC-WQ-2 merely states that the Applicant will comply with the Waste Discharge Requirements of the Los Angeles Region NPDES permit. This permit regulates *discharge*, not dewatering. It certainly does not regulate the movement of the toxic plume. The Regional Water Quality Control Board has no jurisdiction over the Applicant’s non-discharge activities at the Project site. For purposes of preventing plume migration, RC-WQ-2 is meaningless.

Finally, the MND and Master Responses purport to analyze only permanent impacts. (See, e.g., Master Responses, p. 1.) Even if dewatering is temporary during construction, which seems unlikely given the methane mitigation requirements, the impact of that temporary dewatering must be disclosed, analyzed, and mitigated. CEQA requires that construction impacts be analyzed, even though they are temporary. (*City of Arcadia v. State Water Resources Control Bd.* (2006) 135 Cal.App.4th 1392, 1425.)

As it currently stands, we do not know which agency will actually monitor and regulate the movement of the contamination plume if the Project is approved. CEQA does not tolerate attempts to sweep important public safety issues “under the rug,” but that is exactly what is happening here. (*Concerned Citizens of Costa Mesa v 32nd Dist. Ag. Ass’n.* (1986) 42 Cal. 3d 929, 935.)

D. Changes in Circumstances Since 2014 Require Recirculation of the MND.

An MND must be recirculated prior to adoption if “the document must be substantially revised.” (CEQA Guidelines § 15073.5(a).) Substantial revisions to an MND are required when: “(1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.” (*Id.* subd. (b).)

Since the circulation of the MND in 2014, numerous changes have occurred to lower Playa del Rey that have not been included in the MND or its direct or cumulative analyses. The Venice Dual Force Main project EIR identifies 31 different projects that could have cumulative traffic impacts, including the LAX Northside Project (23,635 trips per day), that would add 142,959 additional trips in the area. The MND must be updated to account for these projects and any others that will impacts traffic, aesthetics, land use, and hydrology near the Project site.

Some of these Projects, such as the Venice Dual Force Main project, will have significant adverse impacts on lower Playa del Rey, alone. As discussed above, that Project will have significant impacts on scenic vistas and as related to Vista del Mar's protection as a scenic highway. (See, Exhibit 2.) It is a "new, avoidable significant effect," and the MND must include analysis and mitigation of the cumulative aesthetic impacts of these project. As currently proposed, the Legado Project MND dismisses all aesthetic impacts related to the Project.

E. The MND's Cumulative Impacts Analysis is Impermissibly Narrow.

The MND fails to address development planned for the Applicant's other nearby properties at 200 and 220 Culver Blvd, even though test wells have been drilled and project application activities have begun. This results in piecemealing of the MND in violation of CEQA. (CEQA Guidelines § 15003(h); *Bozung v. Local Agency Formation Commission* (1975) 13 Cal. 3d 263, 283-284 ["environmental considerations do not become submerged by chopping a large project into many little ones -- each with a minimal potential impact on the environment -- which cumulatively may have disastrous consequences."].) The "Master Responses" prepared by the Applicant's representative dispute this claim of piecemealing and claim that future development is speculative. Evidence submitted by Playa del Rey residents refutes this notion. The Director's Determination notes, "no development project has been proposed for 200 and 220 Culver." (Director's Determination, p. 34.) The Determination relies on the wrong standard.

In *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, the Court of Appeal outlined which projects need to be included in a CEQA cumulative impact analysis -- "any future project where the applicant has devoted significant time and financial resources to prepare for any regulatory review should be considered as probable future projects for the purposes of cumulative impact." A project application is not required. Exploratory and follow-up testing certainly implicates the devotion of "significant time and financial resources to prepare for regulatory review."

The court in *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214 set out three items to be used to determine what constitutes the whole of a project: (1) relationship in time, (2) physical location; and (3) the entity undertaking the action. (*Id.* at 1227.) Here, the developments at 138, 200, and 220 Culver meet these criteria: they are undergoing preliminary development activities simultaneously, are located adjacent to or nearly-adjacent to one another, and are owned by the same entity.

F. The City Failed to Apply the Applicable Health Risk Assessment Thresholds.

CEQA requires an agency to undertake a health risk assessment (HRA) where significant health impacts may occur. The CEQA document must assess the magnitude of a proposed project's public health impacts caused by construction and operation. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1219-1220; accord, CEQA Guidelines §15126.2, subd. (a).) CEQA requires the use of the best, most scientifically accurate information available when analyzing impacts. (*Neighbors for Smart Rail v. Exposition Metro Line Const. Authority* (2013) 57 Cal.4th 439, 455 ["public and decision makers are entitled to the most accurate information on project impacts practically possible"].)

The City's environmental review ignores changes to guidance for health hazard assessments that were released by OEHHA in February 2015 and adopted by the Southern California Air Quality Management District (SCAQMD) in June 2015. The guidance, known as the air toxics hot spots program guidance manual for the preparation of risk assessments (guidance manual), is more protective than prior guidance because it includes the use of age-sensitivity factors for estimating cancer risk and changes to the duration of exposure for residents and workers. As a result, the MND may have failed to identify and mitigate significant cancer risks to local residents, especially children who reside nearby. Any resulting omission of critical information about health risks violated CEQA.

As the Project will disturb nearly an acre of land and require excavation of underground parking garages, the Project's earthmoving activities will likely have a significant impact related to particulate matter emissions and diesel emissions. An EIR must be prepared that disclosed, analyzes, and fully mitigates the Project's potential toxic emissions.

Conclusion

Finally, we note that the City has failed altogether to respond to the comments submitted in 2014 by Planning Expert, Sandra Genis. The Playa del Rey Guardian Society respectfully requests that the City review and respond to these comments before the June 28, 2018 hearing on the Project.

Thank you for consideration of these comments. It is our sincere hope that the City fully analyzes the impacts that the Legado Project will have on the beach community of Playa del Rey, its loss of ocean vistas, the Ballona Wetlands, and the contaminated groundwater plume.

Sincerely,



Michelle N. Black

Exhibits

1. Photo Simulation of lost views, Jim Duhe
2. Venice Pumping Plant Dual Force Main EIR Final EIR, p. ES-17.
3. EEC Environmental Letter, July 28, 2015
4. Hydrofocus Comments, June 8, 2018

EXHIBIT 1

BEFORE

AFTER



EXHIBIT 2

VENICE PUMPING PLANT DUAL FORCE MAIN PROJECT

EXECUTIVE SUMMARY FINAL ENVIRONMENTAL IMPACT REPORT

STATE CLEARINGHOUSE NUMBER: 2003031001

**City of Los Angeles
Bureau of Engineering
Department of Public Works
1149 South Broadway, Suite 600
Los Angeles, California 90015**

Contact: Mr. Jim Doty; (213) 485-5759

December 2007

URS

**2020 East First Street, Suite 400
Santa Ana, California 92705**

City of Los Angeles

Executive Summary: Venice Pumping Plant Dual Force Main Project Final EIR

Impact	Cut-and-Cover		Small-Diameter Micro-Tunneling (Boring)			Large-Diameter Tunneling (Mined)		
	Pacific	Via Marina	Beach	Pacific	Via Marina	Beach	Beach w/ cut & cover ends	Pacific
		Del Rey Lagoon Park parking, Napoleon Street foot path			Del Rey Lagoon Park parking, Napoleon Street foot path			
Degrade existing visual character	Significant but temporary from Construction activities	Significant but temporary from Construction activities; Significant long term from loss of mature trees	Significant but temporary from Construction activities	Significant but temporary from Construction activities	Significant but temporary from Construction activities; Significant long term from loss of mature trees	Significant but temporary from Construction activities	Significant but temporary from Construction activities	Significant but temporary from Construction activities
Impact scenic vista	Significant but temporary from Construction activities; Significant long term from loss of mature trees	Significant but temporary from Construction activities; Significant long term from loss of mature trees		Significant but temporary from Construction activities; Significant long term from loss of mature trees	Significant but temporary from Construction activities; Significant long term from loss of mature trees	none	Significant but temporary from Construction activities	none
Damage scenic resource	not significant	Significant long term from loss of mature trees		not significant	Significant but temporary from Construction activities; Significant long term from loss of mature trees	none	Significant but temporary from Construction activities	none
Add light or glare	none	none		none	none	none	none	none
Shade/shadow	none	none		none	none	none	none	none
Inconsistent with regulations	Significant temporary from construction in Scenic Hwy	Significant temporary from construction in Scenic Hwy		Significant temporary from construction in Scenic Hwy	Significant temporary from construction in Scenic Hwy	Significant temporary	Significant temporary	Significant temporary

EXHIBIT 3



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Orange, California 92868
www.eecenvironmental.com

July 28, 2015

Mr. Neill Brower
Jeffer Mangels Butler & Mitchell, LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067

Subject: Groundwater Elevation and Sampling Results for 138 and 200 Culver Boulevard, Playa Del Rey, California 90293

Dear Mr. Brower:

EEC Environmental, Inc. (EEC) is presenting groundwater elevation readings and results of analytical data of groundwater samples collected at 138 and 200 Culver Boulevard in Playa del Rey, Los Angeles County California (subject properties) (Enclosure 1 - *Site Vicinity Map*, Enclosure 2 - *Site Location Map*). EEC was contracted by Jeffer Mangels Butler & Mitchell, LLP (JMBM) to determine local groundwater flow direction and to collect groundwater samples from wells at both addresses to evaluate if historic chlorinated solvent-based dry-cleaning performed at the former Del Rey Cleaners, located at 310 Culver Boulevard, has impacted groundwater beneath the subject properties.

Field Activities

Under the field oversight of the Regional Water Quality Control Board – Los Angeles Region (RWQCB) EEC performed the field activities on July 2, 2015. Prior to sampling, EEC contracted Dulin and Boynton Surveyors of Signal Hill, California to map the coordinates of each well and assess the elevation of the top of each well casing and surface completion. In order to approximate groundwater elevation and determine the approximate direction of groundwater flow, EEC staff determined depth to groundwater at each well using a water level indicator probe. Using both the survey elevation data and the depth to groundwater the potentiometric groundwater elevations in each well were determined. Three single completion wells are located at 138 Culver Boulevard; and two dual completion (4 wells total) are located at the 200 Culver Boulevard property.

After determining depth to groundwater, sampling began via the low flow method, using a QED brand MP50 bladder pump, Horiba U-52 water quality meter with an inline flow cell, and associated tubing. Before sampling, each well was purged. When the optimum pump flow rate was established, drawdown stabilized within the required range, and at least one pump system volume had been purged, field measurements for pH, temperature (T), conductivity (Ec), oxygen reduction potential (ORP), dissolved oxygen (DO) and turbidity (TU) began to be measured and recorded.

Water quality measurements were recorded every 2 to 8 minutes (depending on flow) until stabilization was achieved and all parameters stabilized for three consecutive readings. Once field parameters stabilized, a groundwater sample was collected in laboratory provided containers, labeled, and placed in an ice chest. Prior to and between the collection of each sample, the bladder within the pump was changed out and all equipment including the pump was properly decontaminated using phosphate free

Mr. Neil Brower



soap and deionized water. All groundwater samples were submitted to Eurofins Laboratories of Garden Grove, California for analysis of total petroleum hydrocarbons (TPH) by U.S. Environmental Protection Agency (EPA) Method 8015 and volatile organic compounds (VOCs) by EPA Method 8260B.

Results

Based on the analysis of groundwater elevations, groundwater flow direction in the area of the subject properties appears to be to the northwest (Enclosure 3 - *Summary of Groundwater Elevation Data*, Enclosure 4 - *Potentiometric Surface Map*). Based on the subject properties' proximity to the Pacific Ocean, it is likely that groundwater in this area could also vary due to tidal influence.

All groundwater samples collected were analyzed for VOCs and TPH and compared to California Environmental Protection Agency (CalEPA) maximum contaminant levels (MCLs) for drinking water. All constituents were below their respective CalEPA MCLs except a detection of cis-1,2 - dichloroethene (14 ug/L) in well LMW-1 (shallow zone). Cis-1,2-DCE is a breakdown product of tetrachloroethene (PCE), a dry cleaning solvent. Results of the sampling event are summarized in Enclosure 5, *Summary of Laboratory Analytical Results*. Full laboratory analytical reports and chain of custody forms are presented in Enclosure 6, *Laboratory Analytical Results and Chain of Custody Forms*.

Should you have any questions, please contact me at (714) 667-2300 or mzeko@eecenvironmental.com.

Sincerely,
EEC Environmental

A handwritten signature in black ink that reads "Mark Zeko".

Mark Zeko, P.G.
Senior Hydrogeologist



Enclosures

- Enclosure 1 Site Vicinity Map
- Enclosure 2 Site Location Map
- Enclosure 3 Summary of Groundwater Elevation Data
- Enclosure 4 Potentiometric Surface Map
- Enclosure 5 Summary of Laboratory Analytical Results
- Enclosure 6 Laboratory Analytical Results and Chain of Custody Forms

EXHIBIT 4



June 8, 2018

Los Angeles City Planning
201 N Figueroa St #4
Los Angeles, CA

RE: 138 Culver Boulevard Cases: TT-70786, ZA-2014-2220-CDP, ENV-2012-3536-EAF and
DIR-2012-3537-DB-SPR-MEL

To whom it may concern,

On behalf of Playa del Rey Guardian Society, I herein offer comments on the March 16, 2018 Director's Determination to approve the proposed project at 138 Culver. In the Director's Determination, several relevant environmental issues were discussed. Of significance are site dewatering and contaminants and vapor intrusion.

Relative to dewatering and contaminants, on p. 33, the Director's Determination states the following.

"A Dewatering Report (prepared by Citadel Environmental Services, Inc., March 10, 2015) reported current groundwater conditions to determine the presence of volatile organic compounds (VOCs); the soil borings showed no VOCs were reported by the laboratory above the method detection limit. ... In addition, TerraCosta Consulting Group provided a supplemental investigation of the potential impact of dewatering on the Ballona Wetlands. Based on a hydrogeological model reflecting the cross section of the vicinity, TerraCosta determined the groundwater conditions within the wetlands and the Ballona and Silverado aquifers are not significantly interconnected and are a separate system; the supplemental study determined that dewatering related to the Project would have no impact on the groundwater table at the wetlands."

Relative to vapor intrusion, the Director's Determination stated the following.

"The comments addressed the potential for contaminated soil beneath the former Del Rey Cleaners Site (310 Culver) to impact the project site. However, based on the Soil-Vapor Survey Report (prepared by Environmental Engineering and Contracting (EEC), November 11, 2011), testing of soil borings on multiple locations of the site showed that

volatile organic compounds (VOCs) were not present in levels above laboratory detection limits and therefore, there would be no significant impact.” The report referenced, did not involve testing at 310 Culver. Rather the soil testing was conducted solely at 138 Culver.

Other issues

The Director also determined that all issues discussed in public comments have been sufficiently addressed by the MND and the Response to Comments included in the Record and are subject to the standards, requirements, and mitigation measures outlined in each category of the MND, as well as the Regulatory Compliance Measures. Therefore, there is no substantial evidence that the proposed Project will have a specific adverse impact on the physical environment, on public health and safety, and on property listed in the California Register of Historic Resources.

I herein provide comments on the two salient insufficiently addressed issues, dewatering and contamination, and vapor intrusion. These issues require further investigation for adequate mitigation.

Issue 1. Dewatering and Contamination

Background

As the Director’s Determination recognizes, the site of the proposed development (138 Culver) is located within the boundaries of a Methane Zone and a Methane Buffer Zone. The Determination does not however acknowledge the implications relative to dewatering.

Methane gas flows to the atmosphere from subsurface geologic formations in the Playa Vista area of West Los Angeles where methane mitigation systems have been developed.¹ Ordinance 175790 states that: “All new buildings and paved areas located in a Methane Zone or Methane Buffer Zone shall comply with requirements and the Methane Mitigation Standards” (Ordinance 175790 Section 91.7103). All buildings located in the Methane Zone and Methane Buffer Zone shall provide a methane mitigation system based on the appropriate Site Design Level (Ordinance 175790 Section 91.7104.2).

¹ Ordinance 175790 Section 91.106.4.1 and Division 71 of Article 1, Chapter IX of the Los Angeles Municipal Code

Methane mitigation requirements vary depending on the site design level (I through V) which correspond to varying methane concentrations ranging from 0 to 100 parts per millions for level I to over 12,500 parts per million for level V. Table 71² shows that a passive system is appropriate for all levels. Passive systems require a sub-slab vent system and vent risers and necessitate a permanent de-watering system. The 2011 Application for Building Permit and associated documents in which 138 Culver Associates, LLC of 8383 Wilshire Blvd 630, Beverly Hills, is listed as the property owner, specified the methane site design level as II. Moreover, the specification of vent risers, gravel blanket, impervious membrane in the Application for Building Permit, is consistent with a passive system requiring a permanent dewatering system in Table 71. Based in the available information, it is reasonable to assume that a **permanent** dewatering system will be operative as part of the methane mitigation system.

Also, dewatering will be required for construction as the groundwater level is above the bottom of the proposed single-story underground garage. Specifically, the bottom of the single-story garage is 10 feet below land surface³. Land surface elevation is 10 feet above mean sea level⁴. Underneath the garage, a concrete slab is planned⁵. It is therefore reasonable to assume a depth of excavation of about 11.5 feet below ground surface or 1.5 foot below mean sea level (MSL). The Citadel 2015 report stated that groundwater elevations at the site ranged from 3.58 to 3.94 feet (we used an average value of 3.76 feet) above mean sea level. Therefore, the depth to groundwater below ground surface is 10 feet minus 3.76 feet or 6.24 feet, which is 5.26 feet above the bottom of the proposed underground garage.

Therefore, and consistent with the MND, dewatering measures will be required to mitigate groundwater seepage during excavation. Further, the MND stated that: "A significant impact may occur if a project includes deep excavations resulting in the potential to interfere with groundwater movement." Moreover, permanent dewatering for methane mitigation will alter groundwater movement near the proposed development. As the result of modified groundwater movement, there is the potential for increased contaminant movement towards the site from the Del Rey Cleaners contamination. This is a primary potential impact of site dewatering which has not been adequately addressed or mitigated.

² Ibid

³ Exhibit A Legado Del Mar Plans

⁴ ibid

⁵ Ibid

Groundwater Contamination and Movement of Contaminants

The underground contamination at the Del Rey Cleaners Site at 310 Culver is 540 feet northeast of the Site. Del Rey Cleaners is a registered cleanup site on GeoTracker⁶ contaminated with tetrachloroethene, otherwise known as perchloroethylene, or PCE. The site was formerly a dry-cleaning business that operated between 1962 and 2007. Dry cleaning solutions were stored in drums inside the building, between the dry-cleaning machine and a trench floor drain⁷. No remediation of the soil or groundwater has occurred⁸. Also, the extent of site-related contamination has not been adequately assessed and the subsurface lithology is not adequately understood to allow planning for remedial activities. Once the site is adequately assessed, interim cleanup activities are proposed for implementation⁹. Work is slated to begin soon to characterize the extent and nature of the contamination and subsurface and is expected to last two years.

Dewatering at 138 Culver can potentially affect the movement of PCE-contaminated groundwater in the area surrounding 138 Culver by increasing the hydraulic gradient towards the proposed development. The hydraulic gradient is the difference in groundwater elevations divided by the distance, and is the primary force driving groundwater movement. The overall groundwater hydraulic gradient (change in groundwater elevation with distance) from the Del Rey Cleaner Site to 138 Culver will change due to dewatering. We estimated the present-day hydraulic gradient based on groundwater elevations at the Site and the Del Rey Cleaners Site, 3.76 feet and 4.3 feet above MSL, respectively. Using these values and the distance of 540 feet between the locations results in an estimated hydraulic gradient (the driving force for groundwater movement) of 0.001 foot/foot ($0.001 = (4.3 - 3.76)/540$).

If the groundwater elevation is lowered at the Site to accommodate a single story underground parking structure which will be 1.5 feet below MSL, the estimated gradient will be 0.01 foot/foot ($4.3 - (-1.5))/540 = 0.01$ foot/foot), about 10 times the present-day estimated gradient. Accelerated movement of groundwater containing PCE from the Del Rey Cleaners Site towards the dewatering at 138 Culver, may result in groundwater

⁶ http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL204EN2414

⁷ Los Angeles Regional Water Quality Control Board, 2014, Cleanup and Abatement Order No. R4-2014-0143. Del Rey Cleaners, 310 Culver Boulevard, Playa Del Rey, California (Site Cleanup No. 0997 and Site ID 204EN00).

⁸ *ibid*

⁹ From Regional Board document – Proposed project summary for SCP number 0997 Del Rey Cleaners Site

concentrations sufficiently high underneath the proposed building and/or adjacent buildings to cause in health challenging levels of vapor intrusion.

The fact that Citadel did not detect contamination in groundwater at 138 Culver does not mean that PCE-contaminated groundwater cannot travel towards the site as the result of future dewatering. As recognized in the MND, alteration of the groundwater hydraulics has the potential to move groundwater containing contaminants toward the site which may affect other buildings between 310 Culver and 138 Culver.

Moreover, the Citadel report further stated the need for more data which included determination of aquifer water transmitting and storage properties. Citadel concluded that: ***“These data will provide the deficient information needed to construct a model to assess the potential for a VOC plume migration as a result of dewatering activities.”*** The model should also be designed to assess the potential for subsidence due to dewatering of near-surface fine-grained sediments.

Potential Effects on Ballona Wetlands

Citadel’s conclusion is relevant to assertions about lack of effects in the Ballona Wetlands due to dewatering; more data, analysis and modeling is required to assess potential effects. TerraCosta attempted to dismiss assertions about possible effects of dewatering in the Ballona Wetlands, which may affect the water quality in the wetland. There are several issues with the TerraCosta analysis.

First, TerraCosta in their letter dated October 14, 2014 (pg. 1 last sentence.) stated their understanding that “there are no permanent dewatering systems planned for this project”. The letter did not provide a basis for this statement. As stated above, based on available documents, permanent dewatering is contemplated for methane mitigation.

Second, TerraCosta attempted to assign hydraulic conductivities based on an empirical general relationship “such as the Hazen equation”. However, studies of the validity of such relationships shed doubt on the resultant hydraulic conductivity values. For example, Rosas et al. (2014)¹⁰ measured the grain-size distribution, porosity, and hydraulic conductivity using standard methods for 400 sediment samples. Measured hydraulic conductivity values were then compared to values calculated using 20

¹⁰ Rosas JI, Lopez O, Missimer TM, Coulibaly KM, Dehwah AH, Sesler K, Lujan LR, Mantilla D., 2014, Determination of hydraulic conductivity from grain-size distribution for different depositional environments. *Ground Water*, 52, 399-413.

different empirical equations (including the Hazen equation) commonly used to estimate hydraulic conductivity from grain-size distribution.

Most of the hydraulic conductivity values estimated from the empirical equations correlated poorly to the measured hydraulic conductivity values with errors ranging to over 500%. TerraCosta does not appear to have accounted for any uncertainty in their estimated values of hydraulic conductivity in Table 1, or utilized the information presented in Rosas et al. Estimates of hydraulic conductivity and their respective uncertainty are important relative to TerraCosta's conclusions about groundwater movement and extent of influence.

Third, TerraCosta stated that the groundwater conditions within the wetlands and within the recent Holocene deposits and the Ballona and Silverado aquifers are not significantly interconnected because the wetland sediments behave more like an aquitard. The presence of an aquitard does not translate to lack of connectedness. Aquitards are geologic formations that transmit water at a very low rates compared to aquifers. However, over a large horizontal area, they may permit the passage of large amounts of water¹¹. The scientific literature contains many examples where changes in water levels in aquifers adjacent to aquitards result in changes in hydraulic pressures within the aquitard. (In TerraCosta's Figure 7, the aquifer underlies and is adjacent to the wetland "aquitard"). For example, Joseph Poland's work (cited in the TerraCosta report) hinges on pressure changes in aquitards resultant from declining water levels in underlying aquifers.

On a final note, TerraCosta's estimates of hydraulic influence (Table 1 in their report) and my 2014 preliminary estimate are not substantially different. I estimated 1,000 feet and documented my assumptions in the preliminary use of the equation presented in Todd¹² to estimate the extent of hydraulic influence. Values in TerraCosta's Table 1 range from 400 to 3,200 feet (and includes the Del Rey Cleaners at 310 Culver).

While TerraCosta stated that the dewatering at 138 Culver will not influence the groundwater levels in the Ballona Wetland, I side with Citadel in asserting that additional data collection will provide the necessary and more reliable information about subsurface water transmitting and storage properties, and the use and development of a model will lead to essential information about the effects of dewatering.

¹¹ Bear, Jacob, 1979, *Hydraulics of Groundwater*, McGraw Hill.

¹² Todd, D.K., 1980, *Groundwater Hydrology*, Wiley and Sons

Issue 2. Vapor Intrusion

The elevated soil and soil gas PCE concentrations associated with the Del Rey Cleaners Site indicate that soil vapor intrusion into area structures may be a human health hazard to residents and/or workers. Furthermore, groundwater is shallow, and therefore contaminated groundwater is also a potential source of PCE vapors for soil vapor intrusion to on-site and off-site structures.¹³ It is noteworthy that the breakdown product of PCE, cis-1,2-dichloroethene, was detected in a well at 200 Culver indicating there has likely been movement of PCE-laden groundwater from the Del Rey Cleaners contamination.¹⁴

The primary potential source of PCE vapor intrusion in lower Playa del Rey is contaminated groundwater that will move from 310 Culver towards the project site as the result of dewatering. The absence of VOCs in soils and soil vapor at 138 Culver, as found in the Environmental Engineering and Contracting report dated November 11, 2011 cited in the Director's Determination letter (pg. 35 "Vapor Intrusion"), is not directly germane to this issue. The concern is not that 138 Culver is currently contaminated, but that PCE-contaminated groundwater can move towards the site and be a source of vapor intrusion for 138 Culver and other adjacent buildings. Without additional data and analysis, the conclusion that there would be no significant impact is erroneous.

Summary

In the March 16, 2018 Director's Determination to approve the proposed project at 138 Culver site dewatering, contaminant movement and volatile organic compound vapor intrusion were discussed. I assessed these issues and present evidence that additional data collection and analysis are needed to determine adequate mitigation measures as follows.

- Alteration of groundwater flow conditions due to dewatering at 138 Culver will increase the movement of tetrachloroethene-laden groundwater from the Del Rey Cleaners site toward 138 Culver.

¹³ Ibid footnote 6

¹⁴ Letter to Neil Brower, Jeffer Mangels Butler and Mitchell, LLP from EEC Environmental, July 28, 2015.

- The absence of tetrachloroethene and other volatile organic compounds in groundwater underlying 138 Culver does not constitute evidence that there will not be vapor intrusion of volatile organic compounds.
- Groundwater containing contaminants can potentially move towards the Site as the result of altered groundwater flow due to dewatering.
- Movement of tetrachloroethene-laden groundwater from the Del Rey Cleaners site to underneath adjacent buildings can potentially result in vapor intrusion and health risks for residents.
- The absence of volatile organic compounds in soils and soil vapor at 138 Culver does not constitute evidence that there will not be vapor intrusion of volatile organic compounds.
- Vapor intrusion could occur in the future as tetrachloroethene-laden shallow groundwater can move towards 138 Culver due to increased groundwater flow rates resultant from dewatering.
- Arguments that there will be no hydraulic effect in the Ballona Wetlands suffer from problems related to estimation of subsurface water-transmitting properties and assumptions about the nature of aquifer/aquitard interactions.
- To fully address the effects of dewatering, additional data collection and modeling as recommended by Citadel Environmental Services are required. These actions, conducted in coordination with the Del Rey Cleaners investigation, should sufficiently inform the extent to which additional mitigation measures are required.

Thank you for the opportunity to comment.

Sincerely,



Steven Deverel, Ph.D., P.G.
HydroFocus, Inc. Davis, California

