

APPEAL OF CERTIFICATION OF FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT

Golden State Warriors Event Center and Mixed-Use Development at Mission Bay Blocks 29-32

Table of Contents

Executive Summary

Exhibit A — OCII Response to Appeal of Certification of Final Subsequent Environmental Impact Report

Topic A: Public Comment	A-5
Topic B: Project Description	A-5
Topic C: Tiering	A-6
Topic D: AB900 and Administrative Record	A-6
Topic E: Alternatives	A-7
Topic F: Air Quality	A-9
Topic G: Transportation	A-22
Topic H: Hydrology, Water Quality, and Biological Resources	A-36
Topic I: Noise	A-45
Topic J: Greenhouse Gases Emissions	A-48
Topic K: Geology and Soils	A-51
Topic L: Hazards and Hazardous Materials	A-56
Topic M: Urban Decay	A-62
Topic N: Wind	A-64
Topic O: Recreation	A-65
Topic P: Utilities	A-67
Topic Q: Land Use	A-70
Topic R: Cultural Resources	A-72
Topic S: CEQA Findings and Statement of Overriding Considerations	A-73

Exhibit B — Appeal Materials Submitted by Appellant

Exhibit C — OCII Resolution No. 69-2015 Certifying the Final Subsequent Environmental Impact Report for the Golden State Warriors Event Center and Mixed-Use Development on Blocks 29-32 in Mission Bay South

Exhibit D — OCII Responses to Late Comments

Section 1. List of Persons Submitting Late Comments	D-2
Section 2. Responses to Late Comments on General Topics	D-10
Section 3. Responses to Late Comments on the Environmental Review Process	D-70

Edwin M. Lee
MAYOR

Tiffany Bohee
EXECUTIVE DIRECTOR

Mara Rosales
CHAIR

Miguel Bustos
Marily Mondejar
Leah Pimentel
Darshan Singh
COMMISSIONERS

One S. Van Ness Ave.,
5th Floor,
San Francisco, CA
94103

415 749 2400

www.sfocii.org

Exhibit D — OCII Responses to Late Comments (continued)

Section 4. Responses to Late Comments on the AB 900 Process	D-100
Section 5. Responses to Late Comments on the Project Description	D-102
Section 6. Responses to Late Comments on Plans and Policies	D-114
Section 7. Responses to Late Comments on Archaeological Resources	D-136
Section 8. Responses to Late Comments on Transportation	D-138
Section 9. Responses to Late Comments on Noise	D-195
Section 10. Responses to Late Comments on Air Quality	D-203
Section 11: Responses to Late Comments on Greenhouse Gases Emissions	D-253
Section 12. Responses to Late Comments on Wind	D-262
Section 13. Responses to Late Comments on Recreation	D-267
Section 14. Responses to Late Comments on Utilities	D-271
Section 15. Responses to Late Comments on Biological Resources	D-278
Section 16. Responses to Late Comments on Geology	D-303
Section 17. Responses to Late Comments on Hydrology and Water Quality	D-311
Section 18. Responses to Late Comments on Hazardous Materials	D-331
Section 19. Responses to Late Comments on Alternatives	D-346

Attachment A. Economic & Planning Systems, Inc., *Mission Bay Blocks 29-32*
Office Alternative, April 20, 2015

Attachment B. Examples of Compliance Submittals to the San Francisco Planning
Department Pursuant to a Verification of Compliance with Construction
Emissions Minimization Plan (CEMP)

Exhibit E — Late Comments (on CD)



**APPEAL OF CERTIFICATION OF
FINAL SUBSEQUENT ENVIRONMENTAL IMPACT REPORT
Event Center and Mixed-Use Development at Mission Bay Blocks 29-32**

Executive Summary

DATE: November 30, 2015

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Tiffany Bohee, Executive Director
Sally Oerth, Deputy Director
Chris Kern, Case Planner, Environmental Planning, (415) 575-9037

RE: Board of Supervisors File No. 150990
OCII Case No. ER 2014-919-97;
Planning Department Case No. 2014.1441E

**Appeal of Certification of Final Subsequent Environmental Impact
Report on the Event Center and Mixed-Use Development at Mission
Bay Blocks 29-32**

ATTACHMENTS: Exhibit A — OCII Response to Appeal of Certification of Final
Subsequent Environmental Impact Report

Exhibit B — Appeal Materials Submitted by Appellant

Exhibit C — OCII Resolution No. 69-2015 Certifying the Final
Subsequent Environmental Impact Report for the Golden State
Warriors Event Center and Mixed-Use Development on Blocks 29-32 in
Mission Bay South

Exhibit D — OCII Responses to Late Comments

Exhibit E — Late Comments (on CD)

HEARING DATE: December 8, 2015

PROJECT SPONSOR: GSW Arena LLC

PROJECT CONTACT: David Kelly, (510) 986-2200

APPELLANT: Mission Bay Alliance

Edwin M. Lee
MAYOR

Tiffany Bohee
EXECUTIVE DIRECTOR

Mara Rosales
CHAIR

Miguel Bustos
Marily Mondejar
Leah Pimentel
Darshan Singh
COMMISSIONERS

📍 One S. Van Ness Ave.,
5th Floor,
San Francisco, CA
94103

📞 415 749 2400

🏠 www.sfocii.org

INTRODUCTION

This memorandum is a response ("Appeal Response") to the letter of appeal ("Appeal Letter") to the Board of Supervisors (the "Board") regarding the proposed Event Center and Mixed-Use Development at Mission Bay Blocks 29-32 (the "proposed project" or "project"), which is under the jurisdiction of the Office of Community Investment and Infrastructure ("OCII").

The Mission Bay Alliance ("Appellant") filed an appeal on November 13, 2015 on two issues:

1. the certification of a Final Subsequent Environmental Impact Report ("Final SEIR") by the Commission on Community Investment and Infrastructure ("OCII Commission") under the California Environmental Quality Act ("CEQA") for the proposed project as set forth in OCII Commission Resolution 69-2015 (Exhibit C of this Appeal Response); and
2. the OCII Commission's adoption of the CEQA Findings on the proposed project as set forth in OCII Commission Resolution 70-2015.

By OCII Commission Resolution No. 33-2015, the OCII Commission provided for a process of appeal of its certification of an Environmental Leadership Project to the Board of Supervisors in its capacity as the governing body of the successor agency to the Redevelopment Agency. Resolution No. 33-2015 provided for the Executive Director of the OCII Commission to determine whether a valid appeal has been filed and if so, to advise the Clerk of the Board of Supervisors to accept the appeal. On November 16, 2015, the Executive Director advised the Clerk that the Mission Bay Alliance had filed a valid appeal on the first issue: the certification of the Final Subsequent Environmental Impact Report for the project. Accordingly, this Appeal Response focuses on the first issue regarding the certification of the Final SEIR.

The second issue listed in the appeal, regarding the CEQA Findings, is not appealable. Under OCII Commission Resolution No. 33-2015, persons or entities that submit comments on an Environmental Leadership project may appeal OCII's certification of the EIR for the project to the Board.¹ The grounds for the appeal under Resolution No. 33-2015 are limited to certification of the EIR; thus, no appeal is available from OCII Commission's approval of Resolution No. 70-2015 adopting CEQA Findings, including adopting a mitigation monitoring and reporting program and a statement of overriding considerations. On November 20, 2015, by letter to the Mission Bay Alliance, the OCII Commission Executive Director advised that she rejected the appeal regarding the CEQA Findings for the reasons stated in that letter.² Therefore, this appeal response does not address the appeal of the second issue. The appeal letter states that it was filed pursuant to CEQA Section 21151(c), OCII Resolution No. 33-2015, a memorandum from the Clerk of the Board of Supervisors specifying the procedures for filing an appeal under Resolution No. 33-2015, and the ordinance establishing the OCII Commission (Board Ordinance 215-12 (File 1200898)). To clarify, it is OCII's position that this appeal is authorized only as a result of OCII Resolution No. 33-2015 and is not required by or intended to function as an appeal under CEQA Section

¹ Bohee, Tiffany, Executive Director, OCII. Letter to Thomas Lippe, November 20, 2015.

² *Ibid.*

21151(c). Further, nothing in Board Ordinance 215-12 provides for such an appeal process or right of appeal.³

The decision before the Board is whether to uphold the OCII Commission's decision to certify the Final SEIR and deny the appeal, or to overturn the OCII Commission's decision to certify the Final SEIR and return the project to the OCII staff for further environmental review. While no appeal is available from OCII's approval of Resolution Nos. 70-2015, if the Board — in response to the appeal from OCII Commission Resolution 69-2015 — reverses OCII's certification of the Final SEIR, then "prior project approvals would be rescinded to allow [the OCII Commission] to, if and as necessary, adopt additional findings, revise the F[SEIR], or amend the project approvals."⁴

PROJECT DESCRIPTION

GSW Arena LLC (GSW), an affiliate of Golden State Warriors, LLC, which owns and operates the Golden State Warriors National Basketball Association (NBA) team, proposes to construct a multi-purpose event center and a variety of mixed uses, including office, retail, open space and structured parking on an approximately 11-acre site on Blocks 29-32 within the Mission Bay South Redevelopment Plan Area of San Francisco. The project site is bounded by South Street on the north, Third Street on the west, 16th Street on the south, and by the future planned realigned Terry A. Francois Boulevard on the east. The proposed event center would host the Golden State Warriors basketball team during the NBA season, as well as provide a year-round venue for a variety of other uses, including concerts, family shows, other sporting events, cultural events, conferences and conventions.

The project site is located within the Mission Bay South Redevelopment Plan Area, subject to the development controls of the Mission Bay South Redevelopment Plan, and Mission Bay South Design for Development, and other related documents. Currently, the site contains paved surface parking lots on the west and north portions of the site, and the remainder of the site consists of undeveloped ruderal areas largely covered in gravel and surrounded by chain link fencing. The site is owned by the Golden State Warriors, LLC.

ENVIRONMENTAL REVIEW PROCESS FOR THE PROJECT

On November 19, 2014, OCII issued a Notice of Preparation/Initial Study, which analyzed the potential environmental impacts of the proposed project, and OCII conducted a public scoping meeting on December 9, 2014. Based on the analysis in the Initial Study, as well as detailed analyses and reports prepared in support of the analysis, a Draft SEIR was issued on June 5, 2015. Written public comments were received during the public comment period between June 5, 2015 and July 27, 2015, and a public hearing before the OCII Commission was held on the Draft SEIR on June 30, 2015, at which time public testimony was received. OCII staff then prepared the Responses to Comments ("RTC") document, published on October 23, 2015, to address environmental issues raised by comments received during the public comment period and at the public hearing for the Draft SEIR. The RTC document

³ *Ibid.*

⁴ *Ibid.*

contained additional analysis and reports that verified and expanded upon the Draft SEIR contents. OCII staff prepared revisions to the text of the SEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the Draft SEIR.

The Final SEIR consists of the Draft SEIR together with the RTC document. On November 3, 2015, the OCII Commission certified the Final SEIR. This was based on the determination that the contents of the Final SEIR and the procedures through which it was prepared, publicized, and reviewed, complied with CEQA and the CEQA Guidelines. The OCII Commission found the Final SEIR to be adequate, accurate and objective, that it reflects the independent analysis and judgment of the OCII staff and Commission, and that the RTC document contains no significant revisions to the Draft SEIR.

SUMMARY OF APPEAL ISSUES

The Mission Bay Alliance filed an appeal of the Final SEIR certification on November 13, 2015. Every issue raised by the Appellant is described and responded to in Exhibit A of this Appeal Response, and the appeal materials submitted by the Appellant are presented in Exhibit B. The specific issues raised in the appeal are summarized below, using the same organization and numbering system shown in the appeal, even though many of the issues are redundant.

Issues Raised in the Appeal

- A.1 Public Comment: Noticing and timing of public comment on the RTC document
- B.1 Project Description: Changes in the project description presented in the SEIR
- C.1 Tiering: Reliance of SEIR on 1990 and 1998 Mission Bay EIRs
- D.1 AB900 and Administrative Record: Compliance with requirements for the administrative record under AB 900
- E.1 Alternatives: Analysis of the No Project Alternative
- E.2 Alternatives: Feasibility of the Off-site Alternative
- E.3 Alternatives: Feasibility of an additional site proposed by the appellant
- F.1 Air Quality Impacts
- F.2 Air Quality: Significance thresholds for criteria air pollutants
- F.3 Air Quality: Analysis of construction and operational-related emissions for criteria air pollutants and toxic air contaminants
- F.4 Air Quality: Mitigation measure for construction impacts
- F.5 Air Quality: Mitigation measure requiring purchase of emission offsets
- F.6 Air Quality: Health risk assessment
- F.7 Air Quality: Analysis for construction-related dust pollution
- F.8 Air Quality: Mitigation measures to consider diesel alternatives
- F.9 Air Quality: Operational mitigation measure for electrical outlets
- F.10 Air Quality: Impacts of construction of wastewater improvements
- F.11 Air Quality: Impacts of project refinements

Issues Raised in the Appeal

- F.12 Air Quality: Mitigation measure requiring purchase of emission offsets, new information
- G.1 Transportation Impacts
- G.2 Transportation: Traffic impacts on the entire affected environment
- G.3 Transportation: Impacts on intersections and freeway ramps
- G.4 Transportation: Impacts on intersections where parking control officers (PCOs) are proposed
- G.5 Transportation: Construction impacts, including cumulative impacts
- G.6 Transportation: Operational traffic and transit impacts
- G.7 Transportation: Cumulative impacts
- G.8 Transportation: Transit impact analysis methodology
- G.9 Transportation: Implementation of mitigation measures
- G.10 Transportation: Effectiveness of mitigation measures
- G.11 Transportation: Project description assumptions for transportation improvements
- G.12 Transportation: Enforceability of mitigation measures
- G.13 Transportation: Specificity of fair-share fee mitigation measure
- G.14 Transportation: Transit analysis baseline data
- G.15 Transportation: Traffic analysis baseline data
- G.16 Transportation: Completeness of transportation impacts
- G.17 Transportation: Interrelated issues
- G.18 Transportation: Impacts of at-grade rail crossings on 16th Street
- G.19 Transportation: Truck loading and staging provisions
- G.20 Transportation: Emergency vehicle access impact to UCSF hospitals
- G.21 Transportation: Responses to comments on impacts to BART
- G.22 Transportation: Traffic impacts of project refinements
- H.1 Hydrology, Water Quality, and Biological Impacts
- H.2 Utilities: Wastewater infrastructure impacts
- H.3 Water Quality: Impacts on San Francisco Bay from wastewater discharges
- H.4 Biological Resources: Impacts on wetlands and wildlife
- H.5 Biological Resources: Wetland impacts
- H.6 Utilities: Cumulative impacts on the capacity of the Mariposa Pump Station
- H.7 Hydrology: Flooding risk and inundation impacts
- I.1 Noise Impacts
- I.2 Noise: Use of San Francisco Noise Ordinance
- I.3 Noise: Significance thresholds based on increase over ambient
- I.4 Noise: Significance thresholds based on human health and welfare
- J.1 Greenhouse Gases Emissions Impacts
- J.2 Greenhouse Gases Emissions. Approach to analysis methodology

Issues Raised in the Appeal

- J.3 Greenhouse Gases Emissions. Qualitative vs. quantitative analysis
- J.4 Greenhouse Gases Emissions: Mitigation
- J.5 Greenhouse Gases Emissions: Improvement vs. mitigation measures
- J.6 Greenhouse Gases Emissions: Inventory of emissions
- K.1 Geology and Soils Impacts
- K.2 Geology and Soils: Use of 1998 Mission Bay FSEIR analysis
- K.3 Geology and Soils: Mitigation
- K.4 Geology and Soils: Impacts
- K.5 Geology and Soils: Impact analysis
- L.1 Hazards and Hazardous Materials: Supplemental review
- L.2 Hazards and Hazardous Materials: Use of 1998 Mission Bay FSEIR analysis
- L.3 Hazards and Hazardous Materials: New information
- L.4 Hazards and Hazardous Materials: Naturally-occurring asbestos
- L.5 Hazards and Hazardous Materials: Impact analysis
- M.1 Urban Decay: Impacts in Oakland
- M.2 Urban Decay: Response to comments
- M.3 Urban Decay: Analysis
- N.1 Wind: Impact to open space within the project site
- N.2 Wind: Response to comments
- N.3 Wind: New wind impact in RTC document
- O.1 Recreation: Impacts on Bayfront Park
- O.2 Recreation: Impacts on Bayfront Park
- O.3 Recreation: Impacts on Bayfront Park
- O.4 Recreation: Impacts on Bayfront Park
- P.1 Utilities: Impacts on water supply infrastructure
- P.2 Utilities: Impacts on water supply infrastructure
- P.3 Utilities: Water supply assessment
- P.4 Utilities: Stormwater treatment facilities impacts
- P.5 Energy: New information in the RTC document
- Q.1 Land Use: Consistency with the Mission Bay South Redevelopment Plan
- Q.2 Land Use: Consistency with the Mission Bay South Redevelopment Plan
- Q.3 Land Use: Community character
- R.1 Cultural Resources Impacts
- S.1 CEQA Findings
- S.2 Statement of Overriding Considerations

The grounds for the appeal are mainly a compilation and reiteration of comments on a wide range of issues that were previously submitted by the Appellant, either on the Draft SEIR, the RTC document, or the Final SEIR. Therefore, the responses in Exhibit A to the issues raised in the appeal include cross references to the detailed responses provided by topic in the RTC document. The responses in Exhibit A also reference more detailed responses contained in Exhibit D where appropriate. As explained in more detail below, Exhibit D contains responses to any comments submitted by Appellant or another party that are not responded to in the RTC document because they were received so late that a response could not be included in that document (referred to in this Appeal Response as “Late Comments”). CEQA does not require published responses to any comments received after the close of the public comment period, which ended on July 27, 2015. However, this Appeal Response includes written responses to all late comments submitted by the Appellant, in order to provide the Board of Supervisors with a comprehensive appeal document.

None of the comments raised in the appeal present new information that affects the analysis or conclusions of the Final SEIR on the project.

LATE COMMENTS

The RTC document published on October 23, 2015 provides written responses to all comments received during the public review period as well as responses to a number of comments received after the close of the public review period. However, OCII received numerous late comment letters that were received so late that a response could not be included in the RTC document as well as additional comment letters received after the publication of the RTC document. Some of these late comment letters raise comments on the Draft SEIR, while others raise comments on the RTC document or other project-related actions.

OCII staff presented written responses to the OCII Commission to five of those late comment letters at the OCII Commission meeting on November 3, 2015, and also presented oral responses to several of the late comments received immediately prior to or at the meeting. OCII and the City have continued to receive additional late comments since the November 3, 2015 OCII Commission meeting.

Exhibit D of this Appeal Response addresses all of these late comment letters and also contains responses to public testimony received during the public meeting on project approval actions.⁵ It reproduces all of the substantive issues raised in these late comments and provides written responses to those comments, using the same format as the RTC document (i.e., comments and responses are organized by topic). Exhibit D includes a verbatim copy of the substantive late comments, with similar comments on the same topic grouped together, followed by a comprehensive response on that topic. Exhibit E of this Appeal Response contains copies of the late comment letters and oral comments from the Appellant presented at the November 3, 2015 OCII Commission (excerpted from the meeting transcript), with coding in the margin that corresponds to the coding shown in the

⁵ Only public testimony regarding a critique of the SEIR is included in Exhibit D.

responses in Exhibit D. Due to the volume of late comments and because all substantive comments are reproduced verbatim in Exhibit D, Exhibit E is provided on CD.

Although Exhibit D appears voluminous, most of the information within the document is not new. This is because the issues raised in these late comments are reiterations or elaborations of the same comments previously submitted by the Appellant and are already responded to in the RTC document. Staff created Exhibit D in large part for the ease of members of the Board, so that they would not have to flip back and forth between various documents, including the RTC document. The issues addressed in Exhibit D cover a wide range of topic areas, including but not limited to: environmental review process; environmental justice; urban decay; fiscal feasibility; AB 900 process; greenhouse gases emissions; plans and policies; archaeological resources; transportation; noise; air quality; wind and shadow; recreation; utilities; biological resources; geology; hazardous materials; and alternatives. None of these are new issues. The responses provided in Exhibit D summarize and refer to the responses already presented in the RTC document, and where appropriate, elaborate on the response.

As explained in detail in Exhibit D, none of the issues raised in these late comments present new information that affects the analysis or conclusions of the Final SEIR on the project.

CONCLUSION

OCII staff conducted an in-depth and thorough analysis of the potential physical environmental effects of the proposed project, consistent with CEQA and the CEQA Guidelines. The Appellants have not demonstrated that the Final SEIR is insufficient as an informational document, or that the OCII Commission's findings and conclusions, as set forth in the Final SEIR and certification resolution, are unsupported by substantial evidence. OCII staff conducted all necessary studies and analyses, and provided the OCII Commission with all necessary information and documents in accordance with the Planning Department's environmental checklist and Consultant Guidelines, and pursuant to CEQA and the State CEQA Guidelines. Substantial evidence supports the OCII Commission's findings and conclusions as set forth in the Final SEIR.

For the reasons provided in this Appeals Response, OCII believes that the Final SEIR complies with the requirements of CEQA and the CEQA Guidelines, provides an adequate, accurate, and objective analysis of the potential environmental impacts of the proposed project, is sufficient as an informational document, is correct in its conclusions, and reflects the independent judgment and analysis of the OCII, and that the OCII Commission's certification findings are correct. Therefore, OCII respectfully recommends that the Board uphold the OCII Commission's certification of the Final SEIR.