

From: Tom Lippe [<mailto:lippelaw@sonic.net>]

Sent: Tuesday, November 03, 2015 7:40 AM

To: Guerra, Claudia (CII); Warriors, PLN (CPC)

Cc: Kelly Marie Perry; Susan Brandt-Hawley; Osha Meserve; Patrick Soluri; Josh Schiller; Demetri Blaisdell

Subject: Re: Comments on Final SEIR re Warriors Arena Project

Dear Ms Bohee and Mr. Bollinger:

Attached hereto is Exhibit F (a report by Dan Smith) to my November 2, 2015, comment letter on the Final Environmental Impact Report (FSEIR) and Responses to Comments (RTC) for this Project delivered by email earlier this morning.

Also, please consider this email a comment on the process the OCII has chosen to follow for purposes of certifying the FSEIR.

The OCII's EIR preparation team includes 48 people, including 15 from several City departments and another 33 from six different consulting firms. (DSEIR, p. 9-1.) OCII's team spent 3 months preparing responses to comments and conducting new environmental analysis for changes to the Project, including a new Project Variant, ultimately publishing 2,624 pages of new analysis and data.

Yet the OCII gave the public only 11 days to review the FSEIR/RTC before meeting to certify it. Then, the October 23, 2015, notice of publication of the Response to Comments informed the public they would have no opportunity to comment on the FSEIR/RTC. But the OCII hearing agenda for November 3, 2015 published on October 29, 2015, reversed course and suggested that public comment on the FSEIR/RTC would be heard at the hearing.

As a result, the Mission Bay Alliance's legal team, with its consultants, has not had adequate time to review and comment on the FSEIR/RTC, depriving the Alliance of a fair trial on the Project approvals, including certification of the SEIR, per Code of Civil Procedure section 1094.5(b).

Moreover, the Mission Bay Alliance's legal team has submitted and will submit a large volume of new comments for consideration by the Commission. Since the members of the Commission cannot be expected to review this volume of new information before the close of today's hearing, the Alliance requests that Commission continue the hearing for at least three weeks to: (1) provide a fair trial on the Project approvals, (2) allow the Alliance to complete its review and comment on the FSEIR/RTC, and (3) allow the Commission to review the comments submitted for today's hearing.

Finally, I note that the vast majority of the volume of documents submitted for today's hearing consists of the documentary history of the City's violations of its NPDES permits (see Exhibit M). This submission reflects the fact that my July 24, 2015 comment letter regarding hydrology, water quality and biological impacts observed that the DSEIR's heavy reliance on City compliance with its NPDES permit to ensure the Project's combined stormwater and sewage impacts are less than significant is an unsupported assumption. My previous comment requested that the City support this assumption with evidence. The RTC fails to do so. Therefore, the Alliance gathered that evidence (contained in Exhibit M), and it shows the City has a continuous pattern of violating its NPDES permits.

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On 11/3/2015 5:58 AM, Kelly Marie Perry wrote:

> Dear Ms Bohee, Mr. Bollinger -  
>  
> Attached, in .pdf format, please find today's correspondence with  
> exhibits.  
>  
> Due to file size, I will send a total of three (3) emails with all  
> documents attached, with the exception of Exhibits F that will follow  
> under separate cover.  
>  
> Also, please note the Exhibit M is very large so this Exhibit is being  
> hand-delivered in hard-copy in binders and on disc to the OCII hearing  
> in City Hall today. I am however attaching Exhibit M's table that  
> list all the exhibits.  
>  
> Thank you for your attention to this matter.  
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> Kellu  
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