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VIA EMAIL

June 10, 2021

Ed Almanza
Beach Cities Health District
1200 Del Amo
Redondo Beach, CA 90277
ed.almanza@bchd.org

Jane Ann Diehl, President
Board of Directors
Beach Cities Health District
1200 Del Amo
Redondo Beach, CA 90277
jane.diehl@bchd.org

**Re: Comment on Draft Environmental Impact Report for Beach Cities Health District
Healthy Living Campus Master Plan (SCH 2019060258)**

Dear Mr. Almanza and Ms. Diehl,

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") for project known as Beach Cities Health District Healthy Living Campus Master Plan (SCH 2019060258), including all actions related or referring to the proposed development of a 2-phase project consisting of 1) a 203,700 square foot Residential Care for the Elderly (RCFE) Building with 157 Assisted Living units, 60 relocated Memory Care units, 14,000 square feet for Program of All-Inclusive Care for the Elderly (PACE), 6,270 square feet for BCHD's Community Services, a 9,100 square foot Youth Wellness Center, and a parking structure; and 2) a 37,150 square foot Wellness Pavilion, a 31,300 square foot Aquatics Center, and a 20,000 square foot Center for Health and Fitness (collectively, "Project").

After reviewing the DEIR, we conclude that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. SAFER requests that the Beach Cities Health District address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approvals for the Project. We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

Sincerely,

Rebecca L. Davis
Lozeau | Drury LLP

RLD-1

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:26 PM
To: Meisinger, Nick
Subject: Fw: EIR Public Comment; Project Approval by BCHD Invalidates EIR
Attachments: 2021.06.03.Committed.Final.No.Ltr.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Thursday, June 3, 2021 1:59 AM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: EIR Public Comment; Project Approval by BCHD Invalidates EIR

June 3, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are my public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
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Redondo Beach, CA 90277
[**r.ronne.apc@gmail.com**](mailto:r.ronne.apc@gmail.com)

June 3, 2021

BY OVERNIGHT DELIVERY AND E-MAIL ([EIR@bchd.org**](mailto:EIR@bchd.org))**

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: Public Comments on EIR; BCHD's Project "Approval" Invalidates the Entire EIR Document; Disclosure and Discussion of BCHD's Commitment to and Approval of Project is Entirely and Improperly Omitted from the EIR, Including in Sections 1.0 and 2.0, and All Subparts, including 1.1, 1.2, 1.3, 1.6, 1.7, and 1.8.

Dear Mr. Meisinger:

It is my understanding that you are the proper person to whom public comments on a March, 2021 document called the "Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan" should be addressed

It is my further understanding that the process, including assessment and preparation of the Environmental Impact Report, are governed by all applicable law and regulations, including but not limited to the California Environmental Quality Act ("CEQA", California Public Resources Code, §§ 21000, et. seq.) and the regulations promulgated thereunder (14 CCR §§ 15000, et. seq.); and, that the Environmental Impact Report, to be valid, must comply with each applicable law and regulation.

If I am mistaken in any assumptions, please advise immediately. My public comments on the Environmental Impact Report follow.

Nick Meisinger, re: Healthy Living Campus

June 3, 2021

Page Two

1. Introduction.

A. Purpose of the EIR Process and the Role of Public Comment.

In a March, 2021 document called the "Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan" (herein "EIR"), the Beach Cities Health District (herein "BCHD") claims to propose a massive development plan (the "Project").

The purpose of the CEQA process is to insure that as a whole: "All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation." (14 CCR § 15126).

RR1-2
(Cont.)

In that regard, public participation is "...an essential part of the CEQA process". (14 CCR § 15201). Indeed, in the process "... the public holds a 'privileged position'...", which is based "...on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making." (See generally *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929.)

B. Purpose of These Public Comments.

A fair review of the record and process to date, including the EIR, discloses that BCHD has made every effort to avoid that CEQA required careful, comprehensive, and detailed review of their proposed Project.

In particular this public comment to the EIR, as well as others which will be submitted, requires the EIR to be withdrawn as it is factually and legally deficient. Specifically here, the public comments below show that BCHD has already improperly "approved" the Project. Further, the EIR failed to disclose and discuss in Sections 1.0 and 2.0, and all subparts, including 1.1 ("Overview"), 1.2 ("Lead Agency"), 1.3 ("Purpose and Legal Authority"), 1.6 ("Project Background"), 1.7 ("Scope of the EIR"), and 1.8 ("Areas of Known Public Controversy") that BCHD has, by their long standing commitment to the Project, improperly approved the Project. The EIR is invalid. These public comments are not limited to those EIR sections, but are meant to be as broad as is legally permissible.

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2. BCHD's UNWAVERING COMMITMENT TO THE PROJECT CONSTITUTES APPROVAL; THUS, IRREVOCABLY TAINTING THE EIR AND RENDERING IT INVALID.

A. Introduction.

1) Background.

RR1-3

An EIR, under CEQA, is meant to be an objective, factual report on impacts which a proposed project would have on the environment. Therefore, an agency, such as BCHD is prohibited from "approving" their proposed Project before the EIR process established by CEQA is complete. Here, however, from a time extending before the release of the EIR, and again reaffirmed recently, BCHD has, under the law, improperly "approved" the Project.

There are certain actions which can be taken by an agency (such as BCHD) which have been identified as evidencing an improper, premature Project "approval". Some actions identified in the law which demonstrate Project "approval" can include: Favoring a project,

defending a project against opposition, devoting extensive public resources to it, as well as other activities.

BCHD has taken all the listed actions, and more, constituting their “approval” of the Project in a premature and invalid fashion. Thus, the EIR need be withdrawn as it is invalid.

2) *Applicable law.*

In *Save Tara v. City of West Hollywood, etc., et. al.*, 45 Cal.4th 116 (2008), the California Supreme Court interpreted the rules and regulations under which an agency, such as BCHD, can be deemed to have “approved” a project prematurely. Such “approval” violates the letter and spirit of the CEQA review process.

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RR1-3
(Cont.)

The Court in *Save Tara*, supra, reviewed the analogous situation of improper early “approval” of private developments (which in fact the BCHD Project is). The actions taken by BCHD (both on its own and as the stalking horse for a private developer) demonstrate that BCHD, including well before the release of the EIR, has in fact “approved” the Project. They recently added evidence of the act of “approval”.) By committing to and approving in advance the Project, BCHD has acted in a wholly improper and illegal manner.

The *Save Tara* Court noted that:

“When an agency has not only **expressed its inclination to favor a project**, but has **increased the political stakes by publicly defending it over objections**, putting **its official weight behind it**, devoting **substantial public resources to it**, and announcing a detailed agreement to go forward with the project, **the agency will not be easily deterred from taking whatever steps remain toward the project's final approval.**” (Emphasis added. 45 Cal.4th 116, at 135)

Later, the Court continued:

“Second, the **analysis should consider the extent to which the record shows that the agency or its staff have committed significant resources to shaping the project**. If, as a practical matter, **the agency has foreclosed any meaningful options to going forward with the project**, then for purposes of CEQA the agency has ‘approved’ the project.” (*Id.* at p. 71.)” (Emphasis added. 45 Cal.4th 116, at 139)

The definition of “approval” is found in 14 CCR §15352, which states:

“(a) “Approval” means the decision by a public agency which **commits the agency to a definite course of action in regard to a project** intended to be carried out by any person. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances. Legislative action in regard to a project often constitutes approval.

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“(b) With private projects, approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project.” (Emphasis added)

Finally, in an EIR, the Project objectives must be stated. 14 CCR §15124 (b) provides:

“A statement of the objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project and may discuss the project benefits.”

3) Summary discussion of facts applied to law.

The claimed purpose of the Project is found in the “Project Objectives” discussion in the EIR at page 2-24. There it is stated:

“Based on these Project Pillars, BCHD developed six Project Objectives:

“• Eliminate seismic safety and other hazards of the former South Bay Hospital Building (514 North Prospect Avenue).

“• **Generate sufficient revenue** through mission-derived services to replace revenues that will be lost from discontinued use of the former South Bay Hospital Building and support the current level of programs and services.

“• Provide sufficient public open space to accommodate programs that meet community health needs.

“• Address the growing need for assisted living with on-site facilities designed to be integrated with the broader community through intergenerational programs and shared gathering spaces.

“• Redevelop the Project site to create a modern campus with public open space and facilities designed to meet the future health needs of residents, with meeting spaces for public gatherings and interactive education.

“• **Generate sufficient revenue** through mission-derived services and facilities to address growing future community health needs.

“The underlying purpose of the proposed BCHD Healthy Living Campus Master Plan is to solve the current seismic issues associated with the former South Bay Hospital Building and establish a center of excellence for community health. Implementation of the proposed Project is intended to meet the six objectives described above and therefore achieve the underlying purpose of the proposed Project.” (Emphasis added)

BCHD tells us directly that the Project objectives are about money, and even those Project objectives which do not use the term “generate revenue” require same. Years’ worth of BCHD board and committee meetings focus on the Project as a cash cow. While in the abstract, taking steps to raise revenue is not untoward, BCHD has made clear that the “only” way they want to do so is through this Project. BCHD exudes a “this Project or bust” mentality, and their Board Chair recently reaffirming that complete commitment by stating as much.

With such a singular focus, BCHD is not open to any suggestions other than “we want this Project, and we want it now” (in the same “on the record” Board meeting, BCHD admitted they are in a “rush” to begin construction, again reiterating their “approval” of this Project). Although, as a Health District, BCHD has governmental powers allowing it to “generate revenue” by conventional means, BCHD has specifically eschewed using their power to tax or to borrow. In fact, BCHD directed its staff to not consider such conventional means as a method by which to “generate revenue”.

Plus, there are two sides to “needing money”. One is to find sources of revenue, but second is to cut costs. BCHD eschewed that option also.

One wonders why BCHD has not considered cutting costs. With a payroll nearly double their annual tax revenue, BCHD could afford and in fact *needs to cut costs*. In the end, we can see that there are many options available to BCHD to accomplish their claimed objectives. Their laser like focus on this Project consistently ignores all others and has long since reached the level of “approval”.

A more detailed factual analysis which confirms the conclusion that BCHD has “approved” the Project, even well in advance of the release of the EIR follows.

B. BCHD, as the Claimed Lead Agency, Improperly Approved the Project Before Even Issuing the EIR. By Law, the Project May Not Proceed.

1) BCHD Defends the Project Over Extensive Opposition.

The opposition to the Project is rational, has substantial public support, and is long standing. When faced with opposition to the Project, BCHD has done everything it can to ignore, minimize, and denigrate those who are against it.

As an example, take the 2020 election for the BCHD board of directors. During the election campaign, candidate Martha Koo, M.D. took a published, public position stating her opposition to the Project moving so fast, and asserting that the Project needed further assessment and public input before moving forward. Dr. Koo was (easily) the lead vote getter in that 2020 election. An incumbent candidate who publicly and vigorously supported the Project was defeated.

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*2) BCHD Marginalizes, Intimidates, and then Coopts
Board Members Who Oppose the Project.*

The Board Chair has publicly stated that BCHD is “different” than other agencies, and that BCHD “likes” unanimous board votes. Leading vote getter Dr. Koo has, in the past, voted

in the minority to slow the project down. For example, Dr. Koo has voted against expenditures (and other items) which have come before the Board which are designed to advance the “fast tracked” Project.

RR1-6
(Cont.) The result? Dr. Koo has been ostracized (she is prohibited from speaking with anyone except the CEO about the Project, including her fellow board member), marginalized, and publicly chastised. That has no doubt led to feelings of isolation. In what one fears is a “Stockholm Syndrome” like phenomenon, the constant ostracization by BCHD of its newest board member has (potentially) led to the coopting of an opponent through untoward means.

3) BCHD Shows Every Inclination to Favor the Project.

The above demonstrates amply that BCHD favors “their” Project, this Project, and that BCHD will consider no other options. The required consideration of a “No Project” option must mortify BCHD.

A good example of how BCHD has ignored Project “red flags” which might slow the “rush” to build is their handling of the issue of the required re-abandonment of an “Oil Well” on the Project premises. While the “Oil Well” issue is discussed in separate public comments (which comments are incorporated herein by this reference as if set forth in full), they bear summarizing here.

RR1-7 There is an Oil Well on site which has not yet actually been physically located, but which is required by law to be re-abandoned. Under those circumstances, no project, let alone this Project, can be fairly evaluated. The design and placement of any building structure necessitates knowing about the Oil Well’s location. BCHD knew for a long time (decades) that the Oil Well was an issue; the record is clear on that point.

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Yet, BCHD choose to delay, until **after** the EIR was released, studying the Oil Well issue in detail. Thus, those who must make decisions about the Project, as well as the public, are unable to determine from the current EIR the exact details of the Project. Based on current facts, no one knows what will be built where.

As detailed in the separate discussion, the conclusion that the EIR promulgated deliberately misleading information about the Oil Well is inescapable.

Why would BCHD prematurely release a deceptive EIR if not for their bias in favor of this exact Project?

4) BCHD Has Poured Absurd Levels of Resources into This Project.

If one is left with any doubt about whether BCHD has “committed significant resources to shaping the project”; or, whether BCHD is committed to a “definite course of action in regard to a project”; or, whether BCHD “as a practical matter... foreclosed any meaningful options to going forward with the project...”, consider these facts.

Per their Fiscal Year 2019-2020 audited financial statement (the latest available), which contains figures current as of June, 2020, BCHD has actually spent on the Project the amount of \$4,182,284. (The total budget for the Project is \$7,550,000. Note that current, as yet unaudited, financial reports show both figures ballooning beyond those amounts).

Note also that the \$4,182,284 spent, and the total of \$7,550,000 to be spent on the Project, is for the CEQA/EIR process only. (The Project itself will cost more than one third of a **billion dollars** to build)

To give us some context, the BCHD audited financials tell us that their property tax revenue for FY 2019-2020 was \$3,930,505.

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That means BCHD has spent 106.41% of its FY 2019-2020 property tax revenue on the Project to date. (Calculated by dividing the \$4,182,284 spent on the Project by the \$3,930,505 shown in audited financials as tax receipts).

What do we see for that money spent? An incomplete, premature, and misleading EIR. Nothing more.

And, BCHD plans to spend 192.09% of its FY 2019-2020 property tax revenue in total to complete the CEQA EIR process. (Calculated by dividing the \$7,550,000 proposed to be spent on the EIR for the Project by \$3,930,505 tax receipts shown in audited financials).

Placed in the most pointed of contexts, what BCHD has actually expended to date **is like State of California spending more than \$217,935,120,000 (FY 2019-2020 budget for California was \$204,807,000,000) on ONE EIR process.**

And, what BCHD proposes to spend is the same as State of California budgeting \$393,413,760,000 for an EIR process only. (Again, based on FY 2019-2020 budget of \$204,807,000,000)

BR1-8 Bringing it closer to home, the amounts of money BCHD has spent to date is the same as the City of Redondo Beach actually spending \$136,962,290 for what is only the first part of a (defective) EIR process. (Using Redondo Beach's FY 2019-2020 budget of \$128,711,862 for the calculation)

Finally, what BCHD proposes to spend on the CEQA/EIR process for this one Project is the equivalent of the City of Redondo Beach allocating \$247,242,610 on an EIR process. And, that would be the amount spent to merely to produce a deficient draft of an EIR on a hypothetical project. (Using Redondo Beach FY 2019-2020 budget of \$128,711,862 for the comparison).

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5) *Recent Actions Confirm BCHD has not Only "Approved" this Project, but They Admit they are in a "Rush" to Build Soon.*

On April 28, 2021, after the release of the EIR, but before the public comment period closed, the BCHD Board of Directors met to consider a Properties Committee recommendation. The agenda item under consideration was:

RR1-9 "REVIEW AND AUTHORIZE DISTRICT CEO TO EXECUTE THE **AGREEMENT WITH CAIN BROTHERS**, INCORPORATING THE REDLINED EDITS RECOMMENDED BY THE PROPERTY COMMITTEE, AS THE DISTRICT'S STRATEGIC DEVELOPMENT ADVISOR TO **SELECT A PARTNER** FOR THE **CONSTRUCTION** OF THE PHASE I BUILDING AND **OPERATION OF THE RESIDENTIAL CARE FOR THE ELDERLY (RCFE)** PORTION OF PHASE I OF THE HEALTHY LIVING CAMPUS. **TOTAL FEES** DUE TO CAIN BROTHERS ARE CAPPED AT **\$1.8 MILLION**: MONTHLY RETAINER PLUS MILESTONE SUCCESS FEES FOR \$800,000 AND A FINAL DEVELOPMENT ADVISORY TRANSACTION SERVICES FEE CAPPED AT \$1,000,000." (Emphasis added)

Cain Brothers, the focus of that agenda item, stood ready to receive substantial largesse. For what? One may recall Cain Brothers as the outfit which submitted a bogus study on BCHD's "profits" which was used to justify the Project. Cain then acted as an "investment banker" and now reappears cloaked in the guise of a "strategic development advisor".

One may also recall that Cain was tasked to find BCHD a PACE partner. The cost? Hundreds of thousands of dollars. The result of that expenditure? No further report on the success of that task has been revealed.

A link to the Board of Directors meeting of April 28, 2021 in its entirety can be found here: https://bchd.granicus.com/player/clip/475?view_id=2&redirect=true

The salient parts of the meeting for our purposes begin at the 2:01:55-2:02:30 sequence. There, the Board Chairperson (who has said this before in other contexts) reminds the audience that BCHD follows its “own rules”.

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RR1-9 While nominally claiming BCHD intends to comply with applicable laws, BCHD’s conduct over the years, culminating in the release during March of 2021 of a wholly deficient EIR, belies that conclusion.

Next, at 2:02:45-2:03:20, the Board Chairperson confirms in no uncertain terms that not only has this Project been “approved”, but that BCHD is in a “rush” to get construction under way. The reason given is BCHD’s desire to avail itself of a “design build” loophole it obtained for itself.

So why the rush? The special exemption extended to BCHD which allows them to ignore the usual and customary rules a governmental entity is bound by in contracting for building **expires** on January 1, 2023. The solution? The Board Chair stated it on the record: “We have to build” the Project. Indeed, BCHD is in a “rush”. That “rush”, however, confirms BCHD has no intent to comply with CEQA.

The evidence is undisputed. There is nothing which will stop BCHD from building **this** Project, no matter what. Indeed, BCHD is in a “rush” to “get it going”. Such “approval” is illegal, and vitiates every aspect of the EIR.

6) *Conclusion.*

RR1-10 With all of the evidence, including “breaking the bank” on this Project and the admitted “rush” to continue on, is there any doubt that BCHD is fully, desperately, and irrevocably committed to this Project? There can be found no evidence that BCHD is open to any other alternatives than this Project.

All of the evidence, fairly and impartially considered, points to the conclusion that BCHD has already “approved” this Project, and did so well in advance.

The EIR is legally invalid.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:27 PM
To: Meisinger, Nick
Subject: Fw: SECOND REQUEST: EIR Public Comment; Inadequate Discussion of Impacts of Glare Invalidates EIR
Attachments: 2021.06.03.Glare.Final.No.Ltr.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Thursday, June 3, 2021 9:54 AM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: SECOND REQUEST: EIR Public Comment; Inadequate Discussion of Impacts of Glare Invalidates EIR

June 3, 2021 (SECOND REQUEST).

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are my public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

This same public comment, which BCHD and Wood are required by law to accept, was sent earlier today, but unlike other comments, no confirmation of receipt was provided. Please rectify this error and/or omission immediately.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
r.ronne.apc@gmail.com

June 3, 2021

BY OVERNIGHT DELIVERY AND E-MAIL (EIR@bchd.org)

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: Public Comments on EIR, including on the Inadequate Discussion and Consideration of Glare from the Project, as Related to EIR Sections 3.1, Impact VIS-3, and 5.0 in their entirety, including all subparts.

Dear Mr. Meisinger:

It is my understanding that you are the proper person to whom public comments on a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” should be addressed

It is my further understanding that the process, including assessment and preparation of the Environmental Impact Report, are governed by all applicable law and regulations, including but not limited to the California Environmental Quality Act (“CEQA”, California Public Resources Code, §§ 21000, et. seq.) and the regulations promulgated thereunder (14 CCR §§ 15000, et. seq.); and, that the Environmental Impact Report, to be valid, must comply with each applicable law and regulation.

If I am mistaken in any assumptions, please advise immediately. My public comments on the Environmental Impact Report follow.

Nick Meisinger, re: Healthy Living Campus
June 3, 2021
Page Two

1. Introduction.

A. Purpose of the EIR Process and the Role of Public Comment.

In a March, 2021 document called the “Environmental Impact Report for the

Beach Cities Health District Healthy Living Campus Master Plan” (herein “EIR”), the Beach Cities Health District (herein “BCHD”) claims to propose a massive development plan (the “Project”).

The purpose of the CEQA process is to insure that as a whole: “All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation.” (14 CCR § 15126).

RR2-3
(Cont.) In that regard, public participation is “...an essential part of the CEQA process”. (14 CCR § 15201). Indeed, in the process “... the public holds a ‘privileged position’...”, which is based “...on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making.” (See generally *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929.)

B. Purpose of These Public Comments.

A fair review of the record and process to date, including the EIR, discloses that BCHD has made every effort to avoid that CEQA required careful, comprehensive, and detailed review of their proposed Project.

This public comment to the EIR, as well as others which will be submitted, are intended to generally require the EIR to be withdrawn as it is factually and legally deficient, and hence fatally flawed. Specifically, the public comments below are meant to reveal certain errors, omissions, or other defects in the legally required discussion of Project impacts and alternatives, including those which are found in EIR Sections 3.1, Impact VIS-3, and 5.0 in their entirety, including all subparts. These public comments are not limited to those sections, however, but are meant to be as broad a comment on the EIR as is legally permissible.

Nick Meisinger, re: Healthy Living Campus
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2. The EIR Discussion and Impact Description of “Glare” Found in VIS-3 is Not Sufficient.

RR2-4 “Glare” is essentially the reflection of sunlight (usually amplified) from the exterior of a building, including one which contains reflective materials such as exterior glass paneling.

Not merely a minor inconvenience, glare from buildings can be harmful in many ways. Regrettably, the harmful impacts of glare cannot be adequately mitigated unless taken seriously by a Project.

Taking glare seriously certainly requires consideration in the EIR beyond what we see in this EIR. In addition, building glare requires considering mitigation measures beyond those which may exist in building codes. Regrettably, the codes lag far behind the real world impacts created by glare.

Thus, here, a mere vague recitation in an EIR that there will be “compliance” with building codes on the issue of glare, especially where not one of the real impacts of glare is discussed, is patently not adequate and fails to comport with CEQA.

The deficiencies in this EIR are particularly acute because BCHD is a governmental entity which is looking to massively expand. And, this EIR is written for a “Health District”. Health districts are technically public entities, but ones which have no general purpose. Their only purpose is to focus single mindedly on enhancing the health, safety, and welfare of people.

BCHD, as a “Health District”, is therefore morally, ethically, and legally bound to enhance the health, safety, and welfare of its served population. The EIR drafted in BCHD’s name was duty bound to locate, discuss, and then adopt more than the most minimal standards for glare prevention when evaluating this Project. Instead, the EIR reveals that no Project actually exists, but claims that if and when one does, the lowest possible glare standards will be applied to same.

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That is not acceptable. Yet, the fact that the EIR does not address the glare issue adequately is widespread and apparent. Such failures begin with the EIR failing to review adequate glare standards and continue by the EIR ignoring the variety of harms which glare can cause. Those errors are then compounded by the lack of an illuminating discussion in the EIR as to how a number of higher glare standards which do exist (and can easily be found in the literature) might be applied to this Project to potentially mitigate any harmful impacts from reflected light.

BCHD in its EIR does their best to ignore the real and full impacts of glare. In fact, the entire discussion of glare is found in 3 pages (which is 0.3% of the length of the EIR. See pages 3.1-67-69 of the EIR, the same as PDF pages 265-267 of 972)

Crucially, it need be emphasized again that the EIR does not discuss any real, actual impacts of glare. In part, this may be because, shockingly enough, there is no actual “Project” to be found in the EIR. This thus causes the EIR to wander into a speculative discussion and

“impact” review of hypothetical scenarios. Discussion in an EIR of an intangible, hypothetical, and hence unstable Project does not comply with CEQA.

These statements are proved by the EIR itself. From page 3.1-69 (also found at PDF page 267 of 972):

“The building **design details remain conceptual and specific colors, siding, windows, and overall materials are still being refined....**

“Due to the proposed increase in building mass and size, **it is expected** that the Project would include a greater number of windows and reflective surfaces than the existing Project site.” (Emphasis added)

The EIR raises more questions than answers. For example, how many window and reflective surfaces will be on the Project? The EIR does not (and cannot) tell us. Why? Because the “design details remain conceptual”.

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Does the EIR tell us how glare impacts are measured? No, it cannot. Because, again, there is no “Project”, only a “concept”, and thus no “glare” impacts can be assessed. We are reminded yet again that the Project is wholly unstable.

The EIR is premature and must be withdrawn.

3. The Harms and Impacts Ignored by Description VIS-3 of “Glare” are Many and Serious.

The EIR does tell us that, if and when a Project exists, they will (seemingly arbitrarily) attempt to reduce the impacts of glare with “Light Reflective Values of less than 35 percent”. (From the EIR, page 3.1-69; PDF 267 of 972).

A high number like 35% is not adequate; especially not for a “Health District”, and especially where the harmful impacts of glare which could emanate from the Project still lie within the realm of speculation.

There is literature (ignored in the EIR) which discusses real world governmental solutions in addressing glare. The evidence is that a number so high as 35% is destined to cause grave impacts. In a discussion of the harms glare from buildings causes (they are called “death rays”), the Council on Tall Buildings and Urban Habitat (CTBUH) provides a detailed and well

reasoned discussion of the impacts of glare on the environment. (The full document can be found in this link.

<https://global.ctbuh.org/resources/papers/download/2100-when-buildings-attack-their-neighbors-strategies-for-protecting-against-death-rays.pdf>

RR2-4 (Cont.) The CTBUH tells us that most building codes do not adequately address the problems caused by reflective surfaces, including glare. Instead, it is **recommended** that the **reflective values** of building be **less than 20%, or better yet 15%** (which is the law in some jurisdictions), not the EIR discussed 35%.

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The report states:

“Most city building codes briefly and lightly address solar reflectivity in the same sentence as other types of nuisance such as noise, shadows, and bright paint colors. However, there are two building codes internationally that deal with this matter more categorically. In Singapore, solar reflectance of construction materials is limited to not more than 20%, and authorities have considered lowering that threshold to 15%. In Sydney, Australia, two requirements must be fulfilled; reflectivity of construction materials is limited to not more than 20% and a solar reflectivity study/analysis must be performed.”

That resource also tells us that glare is not just a minor inconvenience. Glare is in fact the term for reflected dangerous sunlight. Glare comes in many forms. “We must remember that ‘light’ is **not only that which is visible**, but that it comes in the **form of thermal load**. **Light is comprised of different components: ultraviolet (UV) radiation, visible light, and infrared**. **Light reflected off buildings carries all three components**.” (emphasis added)

Those different light sources glaring off of a building such as the Project can cause a number of harms. Perhaps harms are not well articulated in the EIR because the Project is merely “conceptual”. Which reminds us that, where, as here, the EIR cannot identify and thus discuss the Project harms, the public and decision makers cannot fully evaluate them. Such (mis)conduct defines an EIR which is not valid.

RR2-5 At a minimum, the EIR should have discussed **in detail** any harmful impacts which can result from building a structure such as the Project. The problems which the EIR ignores are real and substantial, and almost all of them are secondary impacts. In an EIR, “secondary impacts” are a required discussion topic. Yet, in BCHD’s EIR, discussion of secondary impacts

in general are not to be found. As to glare, the BCHD EIR discussion found in “VIS-3 Impacts” is bereft; and is yet another example of insufficient discussion of secondary impacts.

RR2-5
(Cont.)

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The number of harmful impacts caused by glare identified by the CTBUH include, but are not limited to:

1) Increased heat.

There is evidence that the Disney Concert Hall in Los Angeles caused the air conditioning units of neighboring buildings to fail. Additionally, evidence is provided that solar reflection (i.e., glare from buildings) has melted parts of cars and cooked eggs.

RR2-6

The increased heat from glare causes:

- a. Physical harm or discomfort;
- b. Property damage;
- c. Loss of vegetation. (Called “decay”. We are told that some “...plants cannot break down nutrients at certain temperatures and will eventually start to decay. With new construction, conditions can be altered and new paths of light and heat can be created by light reflected off buildings.”)

With global warming, is the Project causing any of these a good thing?

2) Distraction.

Glare which distracts can be fatal. One report referenced by CTBUH documents **an increase of 8 vehicle accidents per day** from building glare.

RR2-7

Note also that the EIR fails to discuss the real world impacts of glare on the environment adjacent to the Project. BCHD in its Project proposes changes to both vehicle and non-vehicle traffic patterns caused by the Project. None of these issues are discussed in the EIR. Some of the proposed changes include an increased number of pedestrians envisioned by the Project and a new bike lane.

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RR2-7
(Cont.)

Where is discussion of how various groups will be interacting with the new bike and increased pedestrian traffic? And, there is extant daily foot traffic which existed from well before the Project was proposed. Those pedestrians include school children. How will children interact with more bike traffic? How might the bikes and kids be distracted by the glare? How will any Project its scenarios which add pedestrian traffic impact the many skate boarders in the area? (One of whom died in the area of the Project)

The EIR is silent on such impacts. It omits too much to be valid.

3) *Impact of glare on young and old (more sensitive eyes).*

Instead of a full and fair discussion about how glare might impact the actual people in the area near the Project, including school children, the EIR provides instead merely vague, general, unsupported conclusions (which we already know are based on hypothetical, unstable “concepts”).

RR2-8

Glare greatly impacts the vulnerable population which actually lives and schools near the Project. Those include a large proportion of the very young and very old.

These factors must be taken into account by the EIR.

4) *Nuisance to neighbors.*

Finally, glare is a well known nuisance to neighbors. For example, morning glare might cause an elderly person to close their shades, depriving them of the little light and hope they have remaining in life. We all look forward to what the “dawning of a new day” brings, and its harbinger, the morning light. The Project takes hope away that hope from its residential (almost all elderly) neighbors to the east.

That issue (and many, many more) need be addressed in the EIR. Hence, the EIR is wholly deficient and is invalid.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:28 PM
To: Meisinger, Nick
Subject: Fw: EIR Public Comment; Land Use Omissions
Attachments: 2021.06.03.Land.Use.Final.No.Ltr.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Thursday, June 3, 2021 4:38 PM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: EIR Public Comment; Land Use Omissions

June 3, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are my public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
r.ronne.apc@gmail.com

June 3, 2021

BY OVERNIGHT DELIVERY AND E-MAIL (EIR@bchd.org)

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: Public Comments on EIR, Violation of Land Use Requirements and Failure to Disclose, as Discussed and Omitted from EIR Sections 1.5, 1.8, and 3.10, and all Subparts, as Well as 3.0 and 5.0 in Their Entirety, Including All Subparts.

Dear Mr. Meisinger:

It is my understanding that you are the proper person to whom public comments on a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” should be addressed

It is my further understanding that the process, including assessment and preparation of the Environmental Impact Report, are governed by all applicable law and regulations, including but not limited to the California Environmental Quality Act (“CEQA”, California Public Resources Code, §§ 21000, et. seq.) and the regulations promulgated thereunder (14 CCR §§ 15000, et. seq.); and, that the Environmental Impact Report, to be valid, must comply with each applicable law and regulation.

If I am mistaken in any assumptions, please advise immediately. My public comments on the Environmental Impact Report follow.

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Page Two

1. Introduction.

A. Purpose of the EIR Process and the Role of Public Comment.

In a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” (herein “EIR”), the Beach Cities Health District (herein “BCHD”) claims to propose a massive development plan (the “Project”).

The purpose of the CEQA process is to insure that as a whole: “All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation.” (14 CCR § 15126).

RR3-2
(Cont.)

In that regard, public participation is "...an essential part of the CEQA process". (14 CCR § 15201). Indeed, in the process "... the public holds a 'privileged position'...", which is based "...on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making." (See generally *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929.)

B. Purpose of These Public Comments.

A fair review of the record and process to date, including the EIR, discloses that BCHD has made every effort to avoid that CEQA required careful, comprehensive, and detailed review of their proposed Project.

This public comment to the EIR, as well as others which will be submitted, are intended to generally require the EIR to be withdrawn as it is factually and legally deficient, and hence fatally flawed. Specifically, the public comments below are meant to reveal certain errors, omissions, or other defects in the legally required discussion of Project land use requirements and disputes, where here there was a failure to disclose and discuss same, which were omitted from EIR Sections 1.5, 1.8, and 3.10, and all Subparts, as Well as 3.0 and 5.0 in Their Entirety, Including All Subparts. These public comments are not limited to those sections, however, but are meant to be as broad a comment on the EIR as is legally permissible.

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2. THE EIR'S LAND USE DISCUSSION IS DEFICIENT IN A NUMBER OF WAYS.

A. Introduction.

1) Background.

RR3-3

Certain relevant portions of the City of Torrance General Plan (as well as various Specific Plans) and the General and Specific Plans of the City of Redondo Beach are not only inconsistent with the Project, they prohibit this Project from going forward. The same holds with certain ordinances and rules applicable to the Project promulgated by the cities in which the Project is proposed to be built.

BCHD must have been aware of these facts because the pattern of the EIR shows that some of the applicable ordinances and General and Specific Plans of both cities are ignored, while other parts of General and Specific Plans and laws and rules are identified but not fully analyzed or discussed. A patchwork quilt of omitted, cursory, or inaccurate discussion of land

use planning rules is what the EIR leaves us with. The EIR thus ignores those CEQA requirements.

2) Applicable law.

In the EIR, BCHD was required by CEQA to discuss, disclose, and provide an analysis of the following:

“The EIR **shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans.**” (Emphasis added. 14 CCR §15125 (d).)

The EIR was also to provide “A general description of the project’s technical, economic, and environmental characteristics...” (14 CCR §15124 (c))

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3) Summary discussion of facts applied to law.

The EIR fails to comply with CEQA in a number of ways with regard to the absolute requirement that it discuss inconsistencies with land use general and specific plans. BCHD may not proceed with the proposed Project.

While the EIR purports to address the Torrance General Plan (“TGP”) at length (see, for example, EIR at pages 3.1-25, et. seq.; Table 3.1-3); and, while there is further “discussion” of the TGP throughout the EIR, those portions are essentially a “copy and paste” job. In fact, the EIR wholly and completely ignores crucial parts of the TGP (specifically, the Torrance Hillside Overlay Zone, herein “THOZ”).

In addition, the EIR minimizes and fails to adequately discuss other applicable items, such as the “Local Street Access” portions codified by Torrance. Similarly, the EIR gives short shrift to their “discussion” of a Redondo Beach voter approved land use restriction commonly known as “Measure DD”. The “oversight” is inexcusable, given that “Measure DD” directly names BCHD and prevents the Project.

Beyond that, the EIR has the unmitigated gall to unilaterally take it upon itself to narrow its CEQA obligation to discuss and analyze the TGP. The EIR states in pertinent part: “...the analysis of potential conflicts with the Torrance General Plan **is limited** to the proposed

development within the City of Torrance right-of-way.” (Emphasis added, EIR, at page 3.1-64).

That EIR attempt to “limit” discussion is disingenuous, at best. The Project BCHD proposes consists of several hundred thousand feet of floor space which will be housed in a towering 6 story structure, proposed to loom more than 100 feet over, above, and adjacent to the THOZ. Indeed, the Project will be accessed by utilizing roads created by construction and shoring built on, over, and thus *within* the THOZ. (EIR, at pages 2-25 to 2-27, and Figure 2-5 and 2-6).

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In summary, there is no excuse for BCHD ignoring in the EIR the legal duty to fully and completely discuss the many and serious inconsistencies between the TGP and its proposed Project. Creating an EIR document which freely ignores and artificially minimizes the importance of relevant land use restrictions imposed by the TGP and relevant specific plan is not within the letter or spirit of CEQA. Hence, the EIR need be rejected.

B. A Discussion of the THOZ is Completely Ignored in the EIR.

1) The Zone is a Crucial and Important Part of the TGP, and Fairly Read Applies to Prevent Construction of the Project.

The THOZ is part of the TGP, and hence BCHD in their EIR was obliged by law (“shall”) to “...discuss any inconsistencies between the proposed project and applicable general plans, specific plans....” The EIR failed in its obligation.

The Hillside and local coastal “overly” district (sic), with an “R-H” class designation is shown on the appropriate City of Torrance maps as within the Project. Indeed, the EIR itself (in Figure 3.10-2, on page 3.10-7) recognizes that fact. Yet, beyond that mention, the required EIR discussion of the THOZ is absent.

The “Official Land Use Plan for the City of Torrance” was established to ensure “...orderly planned use of land resources, and to conserve and promote the public health, safety and general welfare...” (Torrance Municipal Code Section 91.1.1, hereafter “TMC”) This Division of the TMC “...shall be known as the "Official Land Use Plan" of the City of Torrance...” (TMC Section 91.1.2)

The Torrance Land use plan is “binding” on: “All governmental bodies, officers, agencies, including, but not limited to the County of Los Angeles, and all officers and agencies thereof...**all special taxing or assessment districts**, including, but not limited to sanitation districts, **hospital districts**, and air pollution control districts.” (Emphasis added. TMC Section 91.1.1 b) 2))

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For context, note that within the TGP are a variety of land use “districts”. The Plan’s goal in creating such districts was to make sure development was suitable for the “uses and densities” in those districts **and** to make sure the districts were consistent with “adjacent” areas. (TMC Section 91.3.1)

TMC Section 91.3.1 a) tells us the purpose of the THOZ. It states:

“It is hereby declared that in the creation by this Article of the respective classes of districts set forth herein, the City Council has given due and careful consideration to the peculiar suitability of each and every such district for the particular regulations applied thereto, and the necessary, proper and comprehensive grouping and arrangement of the various uses and densities of population in accordance with a well considered plan for the development of the City, and in relation to established plans in adjoining unincorporated areas of the County of Los Angeles, and in the incorporated areas of adjacent municipalities.”

TMC Section 91.3.1 b) continues the thought, and goes on to state:

“The boundaries of such districts as are shown upon the maps adopted by this Article or amendments thereto, are hereby adopted and approved and the regulations of this Division **governing the use of land and buildings, the height of buildings**, building site areas, the sizes of yards about buildings and other matters as hereinafter set forth, are hereby established and **declared to be in effect upon all land included within the boundaries of each and every district shown upon said maps.**” (Emphasis added)

Finally, TMC section 91.3.2 notes in pertinent part that an additional purpose of the districts, of which the THOZ is a part, is to:

“...[C]lassify, regulate, construct and segregate the use of land and buildings, to **regulate and restrict the height and bulk of buildings, and to regulate the area of yards and other open spaces about buildings**, twenty-five (25) classes of districts are hereby established, which said

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several classes of districts are shown and delineated on that certain **series of maps entitled "City of Torrance - Official Land Use Plan" which are hereby adopted and made a part of this Chapter by this reference:"** (Emphasis added)

There can be no doubt that the THOZ is part of the TGP, that the THOZ is (wholly) inconsistent with and stymies the Project, and that CEQA required fully and fair discussion by BCHD in the EIR of the THOZ is lacking. The EIR thus does not comply with its legal obligation.

EIR 2) Despite Knowing the Project Falls Within the THOZ, the
the Fails to Discuss the Fatal Inconsistencies between the TGP and
the Project.

BCHD admits that the Project falls within Torrance's THOZ, the "Hillside Overlay District". (See EIR, Project Description, at pages 2-17 and 2-18; and, figure 3.10-2, at EIR page 3.10-7)

Indeed, the Project proposes construction on and in the THOZ, including, but not limited to: A curb cut within the THOZ; a driveway traversing and mainly within the THOZ; that grading be accomplished within the THOZ; that construction of retaining walls be accomplished within the THOZ; and, that landscaping be done within the THOZ. (EIR, in the Introduction, at page 1-3)

Conspicuously absent, however, is the CEQA required discussion and analysis in the EIR of the fact that the THOZ land use restrictions prohibit any of the building proposed by the Project.

There can be no dispute about this. BCHD in the EIR proposes substantial construction upon and (presumably) perpetual use of the Flagler Lane land, which is within the THOZ. BCHD is bound by the TGP and the Specific Plan with is the THOZ. They know about it. Yet, they ignore it. They were required to discuss it.

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3) Those Drafting the EIR Must Have Known

Discussing
be Fatal to

Inconsistencies Between the THOZ and the Project Would
the Project. CEQA Exists to Require Disclosure, Not Reward Deceit.

There is good reason BCHD ignores full and fair discussion of the THOZ in its EIR. The THOZ prevents construction of the Project. Here are the “planning and design” requirements imposed by the TGP in THOZ, per TMC Section 91.41.6, in their entirety:

“**No construction** and no remodeling or **enlargement of a building or structure shall be permitted** unless the Planning Commission (or the City Council on appeal) shall find that the location and size of the building or structure, or the location and size of the remodeled or enlarged portions of the building or structure, **have been planned and designed in such a manner as to comply with the following provisions:**

“a) The proposed development **will not have an adverse impact upon the view, light, air and privacy of other properties in the vicinity;**

“b) The development has been **located, planned and designed so as to cause the least intrusion on the views, light, air and privacy of other properties in the vicinity;**

“c) The design provides **an orderly and attractive development in harmony with other properties in the vicinity;**

“d) **The design will not have a harmful impact upon the land values and investment of other properties in the vicinity;**

“e) Granting such application **would not be materially detrimental to the public welfare and to other properties in the vicinity;**

“f) The proposed development **will not cause or result in an adverse cumulative impact on other properties in the vicinity.**” (Emphasis added)

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The BCHD Project must satisfy all of those criteria. In fact, it impinges on each and every one of them. The failure of the EIR to discuss them renders the description of the environment of the Project, along with the required analysis of “any inconsistencies” between the Project and the TGP, wholly inadequate. (See 14 CCR §§15125 (c) and (d)).

From the face of the EIR, only a deliberate failure to discuss required CEQA elements with the intent to avoid the consequences of the facts explains BCHD omitting a CEQA

required discussion. That the consequences of the EIR's nullity is that the Project cannot proceed is no reason to excuse BCHD's failure to engage in the mandatory land use discussion. Deceit cannot be rewarded.

C. The Project Proposes to Access Local City of Torrance Streets in Violation of Law, and of General and Specific Torrance Plans.

The TMC, Section 92.30.8 (entitled "Access to Local Streets Prohibited"), states in its entirety.

"No vehicular access shall be permitted to a local street from a commercially or industrially zoned through lot which also has frontage on a major or secondary street. In no case shall a commercial or industrial lot be developed in such a manner that traffic from the commercial or industrial uses on it will be channeled onto any residential streets."

Nothing could be clearer. BCHD proposes by its Project to access Flagler Lane, which is a "local street". That access barred by the nature and scope of the Project which triggers application of that ordinance.

To avoid the obvious consequences of the prohibition of use of the planned access point, the EIR engages in a curious discussion of TMC Section 92.30.8. (See EIR, page 3.10-43). In that section of the EIR, there are musings about "rubbish" and "signs". The language quoted in the EIR is not found within TMC Section 92.30.8. The language of the law which the EIR omitted prohibits the Project. Again, deceit cannot be rewarded.

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And, the deceit is compounded. The EIR states later that there is a "potential conflict" between the Project and Torrance's "Local Access" restriction of 92.30.8. Yet, BCHD continues to ignore the actual language of 92.30.8 in the EIR, which somehow concludes that access and construction activities and building heights prohibited by law create "no significant impact".

Ignored are the facts. An ordinance which advances a land use objective of the TGP, and that the law prevents the Project from moving forward, are given a tortured reading in the EIR. The EIR defies credulity.

Finally, the EIR (in the "Required Approvals" discussion; EIR, at pages 1-5 and 1-6) omits a discussion of 92.30.8. Section 92.30.8 would need to be **repealed** by the Torrance City Council to allow BCHD to do what it proposes in the Project. Extending the deception even further, the EIR simply asserts that a change in the Code requires not a change in the law by

vote of the City Council, but instead for the Project to go forward it merely needs the “City Engineer” of Torrance to approve access (the 8th “bullet” point, at EIR page 1-5).

This assertion is stunningly brazen at best, but is most likely the result of a desire of the EIR to deliberately mislead. Nowhere is it explained how or why the City Engineer could violate a law they are bound to follow, nor how BCHD is excused from the application of that law.

D. The EIR’s Perfunctory Discussion of City of Redondo Beach’s Measure DD, Which Requires the Public Vote on the Project, is False and Misleading.

It is undisputed that the Project will result in the de facto or de jure transfer of public land owned by BCHD to a private venture. It is equally undisputed that the EIR carefully concealed this crucial fact.

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There is a reason BCHD failed to discuss in its EIR the “public to private” transfer of the Project. Such a transfer would require a public vote, per the land use restriction which is commonly known as Redondo Beach “Measure DD”.

Because the EIR is required to discuss and conduct an analysis of “any inconsistencies” (14 CCR §15125 (d)) between the Project and general or specific plans, such as “Measure DD”, the EIR is fatally defective.

“Measure DD” was approved by Redondo Beach voters in 2008, and is codified as part of the municipal code portion entitled “Article XXVII. Major Changes in Allowable Land Use”.

BCHD knows of the existence of “Measure DD” and its requirement that a vote be taken (EIR, at pages 5-11 and 5-29). BCHD wants to avoid a vote. Thus, the EIR simply ignores a discussion of “Measure DD” in any substantive sense.

That “Measure DD” requires a vote of all Redondo Beach residents on whether the Project in any form can move forward is evident.

Section 27.4 (a) of Measure DD states in relevant part: “Each **major change** in allowable land use **shall** be put to a **vote of the People...**” (Emphasis added).

Section 27.2 of Measure DD contains extensive definitions to guide our analysis. Below are quoted the verbatim definitions (including internal redundancies) from that voter approved measure which are pertinent here:

“(f) “Major Change in Allowable Land Use” means any proposed amendment proposed amendment, change, or replacement of the General Plan (including its local coastal element, as defined in Public Resources Code Section 30108.55), of the City’s zoning ordinance (as defined and contained in Title 10, Chapter 2 of the Redondo Beach Municipal Code) or of the zoning ordinance for the coastal zone (as defined and contained in Title 10, Chapter 5 of the Redondo Beach Municipal Code) meeting any one or more of the following conditions:

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“(g) “Peak Hour Trips” means the number of peak hour vehicle trips a major change in allowable land use would generate on a daily basis. Peak hour trips generated shall be calculated by using the most recent version of the Trip Generation Manual of the Institute of Transportation Engineers (ITE) in effect on the date the City issued the notice of preparation of an environmental impact report for a major change in allowable land use, or, where no such notice is issued, when the City commences environmental analysis for the major change.

“(1) The proposed changed in allowable land use would significantly increase traffic, density or intensity of use above the as built condition in the neighborhood where the major change is proposed.

“(2) The proposed change in **allowable land use would change a public use to a private use.** A major change in allowable land use in this category shall include a change of use on (i) land designated for a public use or a public right-of-way; (ii) land designated as a utility right-of-way; (iii) land donated, bequeathed or otherwise granted to the City; (iv) land used or designated for Redondo Beach school property; (v) **land allocated to the Beach Cities Health District;** (vi) land owned, controlled or managed by the City, including all land and water within the City’s Harbor Enterprise; (vii) the beaches, as defined in subdivision (a)(4) of Section 10-5.2204 of the Redondo Beach Municipal Code; and (viii) the tidelands and all other public trust lands, as defined in subdivision (a)(139) of Section 10-5.402 of the Redondo Beach Municipal Code.” (Emphasis added)

Simply put: BCHD wholly ignores that what it proposes to do with its Project (“public use to private use”) is specifically embraced within “Measure DD”. Indeed, “land allocated to the Beach Cities Health District” is particularly and clearly mentioned in “Measure DD”. What BCHD proposes to do in their Project is governed by “Measure DD”. As a land use element which is inconsistent with the Project, a CEQA required discussion need be in the EIR.

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Sleight of hand is how the EIR attempts to skirt the application of “Measure DD”. The EIR claims that only a “zoning change” triggers “Measure DD’s” application, and the BCHD feared required public vote. (EIR, at pages 5-11 and 5-29).

RR3-14 The EIR analysis errs in four key areas. First, as noted above, any “major change” in use requires a vote of the people. A “public to private” change in use included in the definition of a “major change”.

Second, to top it off, *BCHD is specifically named as falling within this public to private “Measure DD” provision.* The Project may not proceed without a vote.

Third, the EIR urges “only” zoning changes trigger application of “Measure DD”. As noted, that is not true, but even if it were, the Project is so out of line with the laws and ordinances of Redondo Beach and Torrance, is so inconsistent with the TGP, the Redondo Beach general plan, and the specific plans of both (including “Measure DD”), that without an actual zoning change, the Project could not proceed.

Fourth, and finally, the EIR is unequivocal that a Conditional Use Permit (“CUP”) will be needed from the City of Redondo Beach for the proposed Project to proceed (E.g., EIR at Table 3.10-3, and pages 3.10.22, 3.14-55). Given the overwhelming variance between the Project and the laws and ordinances of Redondo Beach and Torrance; the inconsistency of the Project with the TGP as demonstrated above, and with the Redondo Beach General Plan, and the specific plans of both (including Measure DD), any application of BCHD for a CUP is in effect a “de facto” request for a zoning change.

One other note: BCHD’s choice to not disclose in the EIR salient, critically important facts; to omit required land use discussions; and, to attempt to mislead readers of the EIR renders the Project “unstable”.

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June 3, 2021

RR3-15 The scope of the Project and its impacts remain undefined in the EIR. That is not acceptable in any practical or legal sense.

In short, we can't tell from the EIR exactly what BCHD will need to do in terms of land use applications for zoning changes, CUPs, and/or permits from various entities, with any accuracy or clarity. The Project is so ill defined, so malleable, so unstable, that in essence the EIR is a work of fiction.

E. Conclusion.

RR3-16 A proposed Project which issues an EIR which is wholly inconsistent with CEQA's requirements cannot be valid. The Project cannot be fairly considered based on the EIR document presented. Thus, the EIR is fatally flawed and need be fully rejected.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:28 PM
To: Meisinger, Nick
Subject: Fw: Supplemental EIR Public Comment; Land Use Omissions
Attachments: 2021.06.03.Land.Use.Final.q.No.Ltr.Supplement.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Thursday, June 3, 2021 11:35 PM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: Supplemental EIR Public Comment; Land Use Omissions

June 3, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are certain supplemental public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
r.ronne.apc@gmail.com

June 3, 2021

BY OVERNIGHT DELIVERY AND E-MAIL (EIR@bchd.org)

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: **(Supplemental) Public Comments on EIR, Violation of Land Use Requirements and Failure to Disclose, as Discussed and Omitted from EIR Sections 1.5, 1.8, and 3.10, and all Subparts, as Well as 3.0 and 5.0 in Their Entirety, Including All Subparts.**

Dear Mr. Meisinger:

RR4-1 This submission is further and supplemental to my comments that the EIR contains certain errors, omissions, or other defects in the legally required discussion of Project land use requirements and disputes, where here there was a failure to disclose and discuss same, which were omitted from EIR Sections 1.5, 1.8, and 3.10, and all Subparts, as well as 3.0 and 5.0 in Their Entirety, Including All Subparts.

These supplemental public comments are in addition to all other comments, and are not limited to those EIR sections stated above, but are meant to be as broad as is legally permissible.

Nick Meisinger, re: Healthy Living Campus
June 3, 2021
Page Two

Additional evidence that BCHD has failed to address land use restrictions which prevent it from pursuing any portion of this Project are found in the deed itself, under which BCHD acquired title to the land on which it desires to build the Project.

RR4-2 On December 26, 1957, by document 537 of the Los Angeles County Recorder, the "Title Insurance & Trust Company" requested and received recordation of a court document in that case styled as "*South Bay Hospital District, a governmental entity v. Redondo Improvement Company, etc., et al*", LASC Case No. INGL. C-1594, entitled "Final Judgment of Condemnation."

Before continuing, it is worth noting that despite multiple valid Public Records Act requests to BCHD, there has been a failure to provide all relevant documents evidencing

RR4-2
(Cont.)

BCHD's title to the land on which they propose to build the Project, as well as any land use restrictions thereon, including CC&Rs thereto. In addition, documents which have been provided omit crucial information.

With that context, the court document which was recorded constitutes the deed to the premises on which the Project is proposed to be built. The grant of that Project land, in the portion that was provided, however, from what can be seen on the fragment provided, is restricted to use only for "...**hospital services** for the **residents of said district** and others, together with appurtenant apparatus for **such hospital**." (Emphasis added)

That covenant of restriction on land use which was imposed on the Project premises at the time of grant "runs with the land", per California Civil Code Section 1462. Thus, that land use limit is currently binding on BCHD (which claims to be the owner of that land as the successor to the South Bay Hospital District), and prevents any and all parts of the proposed Project from being built.

As the EIR posits a Project which may not properly exist on the real property on which it is proposed to be constructed, the EIR is a nullity. BCHD may not proceed with this Project under any circumstance.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:29 PM
To: Meisinger, Nick
Subject: Fw: Supplemental EIR Public Comment; Project Approval by BCHD Invalidates EIR
Attachments: 2021.06.04.Committed.Final.No.Ltr.Supplement.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Friday, June 4, 2021 3:05 AM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: Supplemental EIR Public Comment; Project Approval by BCHD Invalidates EIR

June 4, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are certain supplemental public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
[**r.ronne.apc@gmail.com**](mailto:r.ronne.apc@gmail.com)

June 4, 2021

BY OVERNIGHT DELIVERY AND E-MAIL ([EIR@bchd.org**](mailto:EIR@bchd.org))**

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: (Supplemental) Public Comments on EIR; BCHD's Project "Approval" Invalidates the Entire EIR Document; Disclosure and Discussion of BCHD's Commitment to and Approval of Project is Entirely and Improperly Omitted from the EIR, Including in Sections 1.0 and 2.0, and All Subparts, including 1.1, 1.2, 1.3, 1.6, 1.7, and 1.8.

Dear Mr. Meisinger:

RR5-1 Further to my comments that the EIR failed to disclose and discuss in Sections 1.0 and 2.0, and all subparts, including 1.1 ("Overview"), 1.2 ("Lead Agency"), 1.3 ("Purpose and Legal Authority"), 1.6 ("Project Background"), 1.7 ("Scope of the EIR"), and 1.8 ("Areas of Know Public Controversy") that BCHD has, by their long standing commitment to the Project, improperly approved the Project are these supplemental comments supporting the conclusion that the EIR is invalid.

These supplemental public comments are in addition to all other comments, and are not limited to those EIR sections, but are meant to be as broad as is legally permissible.

Nick Meisinger, re: Healthy Living Campus
June 4, 2021
Page Two

RR5-2 Additional evidence that BCHD has "approved" the Project, even before the comment period closes on June 10, 2021, is found in the agenda packet for the May 26, 2021 BCHD Board meeting. Therein, it is stated that either in August or September, that: "**BCHD Board Certifies Final EIR, Adopts Master Plan, and Authorizes Staff to File Formal Application to City**" (Emphasis added)

The pre-arranged and tight timeline (reminding us that the BCHD director stated in a prior meeting that BCHD was in a "rush" to build the Project), along with the affirmative statement that the BCHD "certifies" the "Final EIR", confirms that BCHD is totally and unequivocally committed to this Project, and no other.

Thus, BCHD has “approved” the Project in an illegal fashion. The EIR is not valid.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:32 PM
To: Meisinger, Nick
Subject: Fw: 2d Supplemental EIR Public Comment; Project Approval by BCHD Invalidates EIR
Attachments: 2021.06.04.Committed.Final.x.No.Ltr.Supplement.2.pdf; IMG_0066.jpg

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Friday, June 4, 2021 8:14 PM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: 2d Supplemental EIR Public Comment; Project Approval by BCHD Invalidates EIR

June 4, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are certain supplemental public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
r.ronne.apc@gmail.com

June 4, 2021

BY E-MAIL ONLY (EIR@bchd.org)

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: **(Second Supplemental) Public Comments on EIR; BCHD's Project "Approval" Invalidates the Entire EIR Document; Disclosure and Discussion of BCHD's Commitment to and Approval of Project is Entirely and Improperly Omitted from the EIR, Including in Sections 1.0 and 2.0, and All Subparts, including 1.1, 1.2, 1.3, 1.6, 1.7, and 1.8.**

Dear Mr. Meisinger:

RR6-1 Further to my comments that the EIR failed to disclose and discuss in Sections 1.0 and 2.0, and all subparts, including 1.1 ("Overview"), 1.2 ("Lead Agency"), 1.3 ("Purpose and Legal Authority"), 1.6 ("Project Background"), 1.7 ("Scope of the EIR"), and 1.8 ("Areas of Know Public Controversy") that BCHD has, by their long standing commitment to the Project, improperly approved the Project are these supplemental comments supporting the conclusion that the EIR is invalid.

These supplemental public comments are in addition to all other comments, and are not limited to those EIR sections, but are meant to be as broad as is legally permissible.

Nick Meisinger, re: Healthy Living Campus
June 4, 2021
Page Two

RR6-2 Additional evidence that BCHD has illegally "approved" the Project is found in the Classified section of the Los Angeles Times. Therein, BCHD took out an advertisement seeking RFQ's from parties who are licensed and able to "develop, own, and operate an RCFE".

By this action, BCHD simply confirms that they are "in a rush" to begin this Project; that BCHD is not open to any other alternatives or options except this Project; that BCHD has prepared this EIR on a "pro forma" basis, with no actual intent of locating or mitigating any environmental harms, or other harms; and, that BCHD has disregarded the CEQA process.

In short, the attached advertisement seeking an RFQ is further evidence the BCHD has "approved" the Project in advance. The EIR is legally invalid.

JOBS · REAL ESTATE · MORE

Bids Wanted

Beach Cities Health District
Request For Qualifications (RFQ)
Project No. Healthy Living Campus RCFE Building Development JUNE-2021

Notice is hereby given that Beach Cities Health District will receive sealed Requests for Qualifications:

Attention: Ms. Monica Suua
Monica.Suua@bchd.org
514 North Prospect Avenue
Redondo Beach, CA 90277

Respondents shall be able to complete any licensing requirements necessary to develop, own and operate an RCFE (Residential Care for the Elderly) facility in the City of Redondo Beach and the state of California.

The District reserves the right to reject or accept any or all responses and to waive any informality or irregularity in any response received and to be the sole judge of the merits of the respective responses received. Qualified respondents will be notified by end of July 2021 and upon executing a Confidentiality Agreement will receive a Request for Proposal regarding development of an RCFE facility on the proposed Healthy Living Campus.

The RFQ can be found at bchd.org/rfq website beginning June 3, 2021.

Responses must be received on or before 5:00 PM PT on Friday, July 2, 2021.

All questions must be submitted to Monica.Suua@bchd.org before June 25, 2021.

Bids Wanted

Legal Notice

Case Number

NOTICE TO DE
(AVISO AL DE
VLADIMIR AY
AREVIK MALKH

YOU ARE BEIN
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STATE FARM
COMPANY

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to call

Fictitious Business Name Statement NO.: 2021 091496

The following person is doing business as:

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:29 PM
To: Meisinger, Nick
Subject: Fw: Public Comment; Lead Agency Disqualified and Unstable Project
Attachments: 2021.06.04.Lead.Agency.Issue.Final.No.Ltr.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Friday, June 4, 2021 5:38 AM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: Public Comment; Lead Agency Disqualified and Unstable Project

June 4, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are my public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
[**r.ronne.apc@gmail.com**](mailto:r.ronne.apc@gmail.com)

June 4, 2021

BY OVERNIGHT DELIVERY AND E-MAIL ([EIR@bchd.org**](mailto:EIR@bchd.org))**

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: Public Comments on EIR, Including the Fact of the Lead Agency Being Disqualified to Act and That the Project is Unstable, as Related to EIR Sections 1.2, 1.3, 1.8., 1.9, as Well as 3.0 and 5.0 in their entirety, including all subparts.

Dear Mr. Meisinger:

It is my understanding that you are the proper person to whom public comments on a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” should be addressed

RR7-1 It is my further understanding that the process, including assessment and preparation of the Environmental Impact Report, are governed by all applicable law and regulations, including but not limited to the California Environmental Quality Act (“CEQA”, California Public Resources Code, §§ 21000, et. seq.) and the regulations promulgated thereunder (14 CCR §§ 15000, et. seq.); and, that the Environmental Impact Report, to be valid, must comply with each applicable law and regulation.

If I am mistaken in any assumptions, please advise immediately. My public comments on the Environmental Impact Report follow.

Nick Meisinger, re: Healthy Living Campus
June 4, 2021
Page Two

1. Introduction.

A. Purpose of the EIR Process and the Role of Public Comment.

RR7-2 In a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” (herein “EIR”), the Beach Cities Health District (herein “BCHD”) claims to propose a massive development plan (the “Project”).

The purpose of the CEQA process is to insure that as a whole: “All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation.” (14 CCR § 15126).

RR7-2
(Cont.)

In that regard, public participation is “...an essential part of the CEQA process”. (14 CCR § 15201). Indeed, in the process “... the public holds a ‘privileged position’...”, which is based “...on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making.” (See generally *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929.)

B. Purpose of These Public Comments.

A fair review of the record and process to date, including the EIR, discloses that BCHD has made every effort to avoid that CEQA required careful, comprehensive, and detailed review of their proposed Project.

This public comment to the EIR, as well as others which will be submitted, are intended to generally require the EIR to be withdrawn as it is factually and legally deficient, and hence fatally flawed. Specifically, the public comments below are meant to reveal certain errors, omissions, or other defects in the legally required discussion of whether BCHD is the proper Lead Agency and as to the stability of the Project, including those discussions found in EIR Sections 1.2, 1.3, 1.8., 1.9, and 3.0 and 5.0, in their entirety, including all of their subparts. These public comments are not limited to those sections, however, but are meant to be as broad a comment on the EIR as is legally permissible.

Nick Meisinger, re: Healthy Living Campus
June 4, 2021
Page Three

2. NO STABLE PROJECT EXISTS FOR THE EIR TO ASSESS; AND, EVEN IF IT DID, BCHD IS PRECLUDED FROM PRESENTING AN EIR AS A PURPORTED LEAD AGENCY.

A. Introduction.

1) Background.

RR7-3

In the EIR, BCHD asserts that it proposes a Project, and that it is the “Lead Agency” under CEQA for such Project. BCHD errs on two key points

First, no “Project” actually exists as the Project lacks any clear, finite and stable description. The undisputed facts demonstrate unequivocally that there is no structure or plan in place to build anything at all, let alone proof in the EIR that there exists an identifiable and stable project. For example, we are told repeatedly that the Project is a mere concept: “The building design remains conceptual...” (EIR, at page 3.1-69, PDF page 267 of 972. See also EIR (PDF) pages 2-34 (152), 3.1-58 (256), 3.1-62 (260), 3.1-66 (264), 3.7-55 (473, at Table 3.7-8)

Second, even if there were a “Project” identified in the EIR, BCHD may not serve as the Lead Agency.

Parenthetically, it is worth noting here that BCHD did not disclose a number of salient facts in the EIR. BCHD must have known that disclosure of all relevant facts would show, on its face, that the CEQA process has been ignored by it, and that the EIR they promulgated is a nullity.

2) *Applicable law.*

CEQA requires that an EIR provide an “accurate, stable, finite description of the project.” This is so as definite Project descriptions are necessary to allow decision makers to act on fact and the public to comment on real, identified Project impacts, instead of conjecture. Where, as here, the Project descriptions are “curtailed” and “enigmatic”, the public’s ability to provide input is defeated and decision makers are stymied. (See generally, *Stopthemillenniumhollywood.co. v. City of Los Angeles*, 39 Cal. App. 5th 1 (2019, Second Circuit, Division Three))

Nick Meisinger, re: Healthy Living Campus

June 4, 2021

Page Four

Even if some sort of stable Project was actually described in the EIR, which it is not, the law is clear that BCHD could not serve as the Lead Agency for same. 14 CCR §15051 (b)(1)) provides:

“If the project is to be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole.

“*(1) The Lead Agency will normally be the agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district or a district which will provide a public service or public utility to the project.*”

3) *Preliminary facts applied to legal analysis.*

Under the law, BCHD may not serve as the Lead Agency for multiple reasons.

First, although no stable Project now exists given that the EIR lacks accurate, finite descriptions of existing conditions and proposed plans, it is undisputed that any Project which may later exist will be run by a private entity.

Second, under circumstances such as these where a nongovernmental Project is proposed, a single or limited purpose agency (such as BCHD) is not the proper Lead Agency. Instead, a city (here, Redondo Beach) with general governmental powers must serve as the Lead Agency.

Third, despite their conclusory, boilerplate statement to the contrary, BCHD has little or no, let alone the “greatest” responsibility for “supervising or approving the project as a whole.”

Nick Meisinger, re: Healthy Living Campus

June 4, 2021

Page Five

This fact is true on two levels; the practical and the governmental powers level. The practical level is implicated because BCHD, by turning over control of the Project to a private owner/operator, will have no input when, at a later date, what is actually to be constructed is proposed. On the governmental level, BCHD has no apparatus or infrastructure which would allow them to supervise or approve the necessary elements of any project, let alone this Project.

Examining the practical level in more detail, it is fact that BCHD intends at some undetermined point to become a minority partner in some undefined private venture. As a junior owner, BCHD will totally lose control over the financing, development, and operation of any Project. In short, BCHD will, if and when there actually is a Project, not be able to supervise or approve any part of same.

Shockingly, the EIR does not provide any information whatsoever about the legal entity which will in fact supervise and control any the development of any Project. There is a reason for this. That entity does not currently exist. And, we are not told when the actual party who will supervise, approve, and control any Project will exist. BCHD is not even sure what form that entity will take. Any of these issues alone are a fatal defect in the EIR. All of them together prove bad faith on BCHD’s part.

Looking more deeply at the governmental level, BCHD, as a single or limited purpose agency, has no structure or authority which would allow them to “approve” any aspect of this project at all.

Indeed, as a Health District, BCHD merely provides various services to the community. It has no experience with massive construction projects. As such BCHD is

relegated to the role of a Health “district which will provide a public service or public utility to the project.”

For all these reasons, BCHD cannot act as a Lead Agency.

Nick Meisinger, re: Healthy Living Campus
June 4, 2021
Page Six

RR7-4
(Cont.)

The only governmental entity which could possibly serve in that role is the City of Redondo Beach. Redondo Beach has the governmental apparatus, experience, and structure in place to supervise and approve construction and building permits. However, merely because the City of Redondo Beach is the only potential legally authorized Lead Agency does not mean they must accept that role. To make a determination, the City of Redondo Beach would need to start the assessment of this Project over from day one.

Thus, to the extent any Project exists at all, which it does not, for a number of reasons BCHD is barred from serving as the Lead Agency on the Project. The EIR is thus null and void.

B. The Unstable, Nonexistent “Project” is Envisioned as a Private, not a Public Development.

1) *The “Project” is in fact entirely specious.*

Shockingly, there is in fact no Project to assess in this EIR. No Project at all exists because there is no plan for it to move forward and there is no legal entity which currently exists to own, build, or operate any Project. Beyond the lack of any clear, finite and stable description of the Project itself, the EIR affirmatively conceals the fact that, later, a private party not identified in the EIR will actually own, design, construct, and manage the Project. As confirmed in the EIR, the current “Project” is (entirely) “conceptual”.

RR7-5

Yet, in order to justify spending more than double their annual tax revenue on merely considering a concept for a Project which is not even theirs, BCHD commissioned over the years various “feasibility” studies. Those studies, and subsequent actions, prove the point.

One such “study” was accomplished by the “Cain Brothers”, which is one of the few investment banking firms remaining after the Financial Crisis of 2008. The report was dated June 12, 2020 (hereinafter “Cain”), after which it was hurriedly presented to the BCHD Board of Directors on June 17, 2020.

Nick Meisinger, re: Healthy Living Campus
June 4, 2021
Page Seven

On page 9 of the portion of the study titled “PACE Growth Strategies Next Steps”, Cain recommended that BCHD “...develop a **“business plan with joint-venture governance structure”**. (Emphasis added)

Nearly a year has passed, and that was not done. But, the story does not end there. On March 12, 2021, Monica Suua, the CFO of BCHD, issued a report to the Finance Committee of BCHD. In that report, the Committee is asked to:

“Please review and consider a potential action item by the Committee to recommend to the District Board to **continue to engage experts (architectural, financial, legal, etc.) and generate more detailed financial information about the Healthy Living Campus (HLC) project. These efforts will also create a legal organizational structure with operator/developer partners** for both PACE (Program for All Inclusive Care for the Elderly) and RCFE (Residential Care for the Elderly) that will assist funding the District’s future programs and services if the project is approved.” (Emphasis Added)

Note that the EIR was issued March 10, 2021. The CFO memo was dated two days later. Hence, at the time of the issuance of the EIR, there was no plan, no entity to own or develop the Project. In short, there is no “Project” for the EIR to address. Instead, we are left guessing as to what will be “created” at some undefined point in the future. As such, CEQA has not been complied with, the EIR is not now ripe. The EIR is premature and need be wholly disregarded.

2) Any Eventual “Project” will be privately owned and operated.

The Project is a private project, which will be financed with private funds, which will be built and operated by, as noted, some as of now non-existent entity. While those essential, critical facts exist, they are missing from the EIR. Whatever and whenever some new and different “legal organizational structure with operator/developer partners” (perhaps an LLC or LLP) is created, as a matter of law, this Project will “be carried out by a nongovernmental person or entity.”

Nick Meisinger, re: Healthy Living Campus
June 4, 2021
Page Eight

That fact is corroborated by the reality that BCHD has no funds to build this Project. (BCHD does have the power to tax and to issue bonds, but they have assiduously avoided the public finance route one would typically associate with a public works/construction project. This is yet more evidence that this Project is one which “is to be carried out by a nongovernmental person or entity..”)

The Cain report further confirms factually that the “proposed” non-project “Project” described in the EIR is a private venture.

On page 1 of the “AL / MC Summary”, Cain stated verbatim as follows:

“Background- Based on local community needs, the Beach Cities Health District (the “District”) is considering the development of an Assisted Living (AL) and Memory Care (MC) facility as part of the redevelopment of its Healthy Living Campus

“To develop/operate/finance the facility, the District will seek a “best of breed” Joint Venture partner

“The District sought confirmation as to what number and mix of AL/MC units will **produce acceptable profitability to attract JV interest...**” (emphasis added)

If and when it has a legal existence, the “Project” is private one. Hence, it is one as defined in 14 CCR §15051 (b)(1) which “is to be carried out by a nongovernmental person or entity.”

C. BCHD is as a Matter of Law is “an agency with a single or limited purpose” Which Will Provide a Public Service to the Project.

Thus, it is confirmed that the “project is to be carried out by a nongovernmental person or entity”. With that element of 14 CCR §15051 (b)(1) being established, the general rule that BCHD, as a single or limited purpose agency, may not serve as the Lead Agency for an EIR under CEQA is triggered.

Nick Meisinger, re: Healthy Living Campus
June 4, 2021
Page Nine

There is no doubt BCHD is a single or limited purpose agency. BCHD tells us that themselves: BCHD is a “California Healthcare District”. (EIR, Section 1.2, page 1-2, PDF page 102 of 972)

In addition, BCHD relates that in its limited purpose as a Health District will instead “...**provide a public service...to the project.**” (14 CCR §15051 (b)(1), emphasis added)

Here is how BCHD describes itself, in its own words, in the EIR:

“BCHD offers a range of evidence-based health and wellness programs with innovative services and facilities to promote health and well-being and prevent diseases across the lifespan of its service population – from pre-natal and children to families and older adults. Its mission is to enhance community health through partnerships, programs, and services focused on people who live and work in the Beach Cities. In many BCHD services are also available to residents throughout the South Bay. BCHD strives to provide its service population with a center of excellence for intergenerational community health, livability, and well-being (see Section 2.4.1, *BCHD Mission*).” (Emphasis in original. See Section 1.2, page 1-2 of EIR, PDF page 102 of 972)

The above is, in its entirety, BCHD’s “factual” statement as to why it is an adequate Lead Agency. All BCHD does, and all BCHD has ever done is provide, by their own admission, “... a range of evidence-based health and wellness programs with innovative services...”

What we see is telling and direct: BCHD will “provide services” to the private party who “finances, develops, and operates” the Project. In short, it is abundantly clear that BCHD’s only role in the Project is to provide services to the Project **after** completion. All other phases of the project (as specified in its own words); finance, development, and operation, are in private hands to which BCHD will provide services. As such, BCHD may not serve as the Lead Agency for this EIR.

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D. The City of Redondo Beach is the Only Viable Entity Which Could Serve as a Lead Agency for the Project.

1) Introduction.

The general rule of law is that: “The Lead Agency will normally be the agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district or a district which will provide a public service or public utility to the project.” 14 CCR §15051 (b)(1)

Here, that only candidate for Lead Agency on this EIR is Redondo Beach.

2) Redondo Beach has responsibility for the entire project.

Under the undisputed facts which are devastating to BCHD's "power grab" in anointing itself as the Lead Agency, BCHD may not in fact serve as the Lead Agency for the Project.

Instead, under the law, the Lead Agency "... shall be the public agency with the greatest responsibility for supervising or approving the project as a whole." 14 CCR §15051 (b)(1)

That is not BCHD. As a "special purpose" Health District, BCHD does not have a Municipal Code. Thus, BCHD has no building code; it has no Building Department; it, has no building inspectors. BCHD has no Public Works Department.

BCHD has no City Manager to strategize or coordinate impacts. BCHD has no Police Department, no Fire Department.

BCHD has never marshalled through an EIR. BCHD does not "build" anything; they simply provide the services they themselves described in the EIR.

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Redondo Beach has every element of government listed above. Redondo Beach is an "...agency with general governmental powers, such as a city or county." Redondo Beach is very familiar with EIRs and public works. Redondo Beach will suffer the Police and Fire Department impacts of any Project.

Every decision on every aspect of this Project from a governmental entity role will need to be made by the City of Redondo Beach. There is no fact, reason, purpose, or law which would allow a deviation from the general Lead Agency rule. Redondo Beach is "the public agency with the greatest responsibility for supervising or approving the project as a whole".

Even if BCHD were a proper lead agency, which it is not, the fact they "acted first" in an apparent attempt to usurp the City of Redondo Beach's role as lead agency does not avail them.

The *Fudge v. Laguna Beach* court (Court of Appeals of California, Fourth District, Division Three, filed on November 15, 2019, No. G056403) issued an unpublished decision on the issue of which entity was the proper Lead Agency. The dispute involved a limited purpose entity and general purpose governmental entity. Although not precedent, language which still provides some illumination is found in the opinion. The court noted:

"But under section 15051, subdivision (b)(1), of the Guidelines, **a city or county has precedence over the Coastal Commission, which has the single or limited purpose** of protecting and developing coastal areas under the Coastal Act. Therefore, the City is the lead agency for the Scout Camp project even though it was not the first party to act on the

project.” Therefore, **the City is the lead agency for the Scout Camp project even though it was not the first party to act on the project.”**” (Emphasis added)

BCHD may not serve as the Lead Agency on this Project. That role is exclusively that of the City of Redondo Beach.

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3) BCHD will have no input into supervising any actual project.

The Cain report is here again dispositive.

From page 3 of the “Observations” portion of the Cain report:

“– Cain Brothers also calculated the estimated internal rate of return both for the project itself as well as for the JV investor on both an 80/20% and 75/25% JV split – actual JV ownership percentages will be negotiated going forward”.

From page 3 of the “AL / MC Project Analysis” portion of the Cain report:

“- Cain Brothers also calculated the estimated internal rate of return both for the project itself as well as for the JV investor on both an 80/20% and 75/25% JV split – actual JV ownership percentages will be negotiated going forward”

From page 13 of the “AL / MC Unit Mix, Financing, and Operations Projections Summary” of the Cain report: “If BCHD is the 25% owner of this facility...”

As a factual, practical, and legal matter, BCHD will, at some undefined point in the future, cease to exist vis a vis the Project. Some private “joint venture” will replace BCHD. Thus, BCHD has no control over, input into, or supervisorial authority with regard to any Project which may (or may not) at a later point exist.

If and when the new joint venture emerges which is the actual proponent of this Project, they can seek the City of Redondo Beach’s input into whether Redondo Beach wishes, under CEQA, to serve as the correct Lead Agency. That project, proposed by the new, private entity over which, as a 20% or 25% owner, BCHD will have no control, will be different than this Project. Thus, this EIR can be said to be a work of fiction. That is not consistent with CEQA.

E. Additional Considerations.

First, BCHD knows it cannot be the Lead Agency. Their failure to disclose critical facts concerning any legal entity or structure (or, as here, the current lack thereof) which may (or may not) own and operate the Project at some future date, is telling.

There had to be a reason for BCHD's failure to disclose who might own, finance, develop, and operate at some future point some Project. Only two reasons come to mind. Either BCHD is so inept that they "did not know" they couldn't be a Lead Agency or BCHD knew, but concealed relevant facts pertinent to that analysis.

Under either scenario, one cannot condone BCHD's subterfuge. Their failure to disclose those critical facts discussed above has two impacts.

1. As meticulously detailed, BCHD cannot serve as the Lead Agency.

2. It seems likely that BCHD's concealment of facts in their EIR had a purpose of attempting to circumvent the public vote required by Redondo Beach "Measure DD".

In that "Measure DD", which was an addition to the Redondo Beach Municipal Code, BCHD is specifically named as one of the limited purpose agencies in Redondo Beach which cannot transfer public land to private use. "Measure DD" provides in pertinent part:

"The proposed change in allowable land use would change a public use to a private use. A major change in allowable land use in this category shall include a change of use on (i) land designated for a public use or a public right-of-way; (ii) land designated as a utility right-of-way; (iii) land donated, bequeathed or otherwise granted to the city; (iv) land used or designated for Redondo Beach school property; (v) land allocated to the Beach Cities Health District..." (Emphasis added)

One final point. In section 1.5 of the EIR, where "Required approvals" are discussed (found on pages 1-5 and 1-6 of the EIR), tellingly, BCHD omits those approvals which are

required from the City of Torrance. This is curious because BCHD admits the Project is subject to the Torrance General Plan and Torrance's land use ordinances. Despite this knowledge, BCHD fails to mention those limits on its Project.

While this point will be discussed in more detail separately, BCHD's pattern of omitting salient facts from the EIR is a recurring pattern which is disturbing.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:30 PM
To: Meisinger, Nick
Subject: Fw: EIR Public Comment; Inadequate and Misleading Discussion of Multiple Hazards, and Deception about Oil Well Invalidates EIR
Attachments: 2021.06.04.Pollution.Oil.Well.Final.No.Ltr.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Friday, June 4, 2021 11:53 AM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: EIR Public Comment; Inadequate and Misleading Discussion of Multiple Hazards, and Deception about Oil Well Invalidates EIR

June 4, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are my public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
r.ronne.apc@gmail.com

June 4, 2021

BY OVERNIGHT DELIVERY AND E-MAIL (EIR@bchd.org)

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: Public Comments on EIR, Including Directed to the “Hazards”, “Geology”, and “Hydrology” Statements Found and Discussed in EIR Sections 3.8, 3.6, and 2.9, as Well as 2.0, 3.0, and 5.0 in Their Entirety, Including All Subparts.

Dear Mr. Meisinger:

It is my understanding that you are the proper person to whom public comments on a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” should be addressed

It is my further understanding that the process, including assessment and preparation of the Environmental Impact Report, are governed by all applicable law and regulations, including but not limited to the California Environmental Quality Act (“CEQA”, California Public Resources Code, §§ 21000, et. seq.) and the regulations promulgated thereunder (14 CCR §§ 15000, et. seq.); and, that the Environmental Impact Report, to be valid, must comply with each applicable law and regulation.

If I am mistaken in any assumptions, please advise immediately. My public comments on the Environmental Impact Report follow.

Nick Meisinger, re: Healthy Living Campus

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Page Two

1. Introduction.

A. Purpose of the EIR Process and the Role of Public Comment.

In a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” (herein “EIR”), the Beach Cities Health District (herein “BCHD”) claims to propose a massive development plan (the “Project”).

The purpose of the CEQA process is to insure that as a whole: “All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation.” (14 CCR § 15126).

RR8-2
(Cont.)

In that regard, public participation is "...an essential part of the CEQA process". (14 CCR § 15201). Indeed, in the process "... the public holds a 'privileged position'...", which is based "...on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making." (See generally *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929.)

B. Purpose of These Public Comments.

A fair review of the record and process to date, including the EIR, discloses that BCHD has made every effort to avoid that CEQA required careful, comprehensive, and detailed review of their proposed Project.

This public comment to the EIR, as well as others which will be submitted, are intended to generally require the EIR to be withdrawn as it is factually and legally deficient, and hence fatally flawed. Specifically, the public comments below are meant to reveal certain errors, omissions, or other defects in the legally required discussion of Project hazards, geology, hydrology and alternatives, which are found in EIR Sections 3.8, 3.6, and 2.9, as well 2.0, 3.0, and 5.0 in their entirety, including all subparts. These public comments are not limited to those sections, however, but are meant to be as broad a comment on the EIR as is legally permissible.

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2. THE EIR'S DISCUSSIONS FOUND IN SECTIONS 3.8 ("HAZARDS", ETC.), 3.6 ("GEOLOGY", ETC.), AND 2.9 ("HYDROLOGY", ETC.) ARE WHOLLY INADEQUATE AND MISLEADING.

A. Introduction.

1) Background and Summary.

RR8-3

In the EIR, under CEQA, BCHD was required to locate hazards, discuss how the Project might cause them to impact the environment (or explain whether and how the impact of those hazards could be reduced), and then discuss alternatives. There are other items discussed in this public comment as well.

The three (3) main issues reviewed in this portion of the public comment to the EIR are these.

First, the fact that an abandoned oil well (the "Well") is extant, and lies within the ambit of the Project construction zone is problematic in the extreme. The existence of the Well is

compounded by the fact that BCHD has not made full and proper efforts to locate the Well. As of the release of the EIR, the Well has not been located with any precision. The impact of BCHD's failure to find the Well on the efficacy of their EIR cannot be overstated. Particular rules apply to construction around and over a Well, and every aspect of the Project will need to be "updated" when the full extent of the Well is precisely identified and located.

For example, a non-inclusive list of Project items impacted by a Well might include where the actual construction will be done (i.e., where the buildings are situated); the ingress and egress points for the Project; the extent of the noise "cone" caused by any construction; the routing of trucks; as well as other items. Much, if not all of the Project depends on where the Well is located within the land on which construction is proposed. In short, every aspect of the EIR is negatively impacted by the lack of disclosure in the EIR of CEQA required information and discussion, including as to the Well.

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Compounding the problem even more is the manner in which BCHD has approached the issue of the Well. For more than 30 years, BCHD knew there was a Well located in and on its property. Yet, during the entire CEQA process, BCHD's representatives dissembled and affirmatively mislead. Either BCHD, which claims the mantle of "Lead Agency", did not realize the grave impact of a Well in the middle of a Project; or, for years, they engaged in a pattern of deliberate deceit about the Well.

This tells us that either BCHD is incompetent or nefarious. While the facts support a more likely conclusion that BCHD is nefarious (they even ignored a responsible agency's comments and request during the NOP phase to address the Well in the EIR), whichever it is, the EIR is fatally flawed and BCHD is not competent to "self-approve" such a massive Project. (As noted in a separate discussion, they are not even the correct lead agency)

Second, the Project will be built on and over a toxic waste site. Again, the EIR minimizes the impacts of the chemicals identified on the Project premises. And, we are not told how or when these pollutants, which are of a type which cause proven harms to human beings (including vulnerable children and frail elderly who live nearby) will be removed. (Note: The pollutants may never be removed as statistics show a 94% chance of failure for this Project)

Third, the incomplete and probably deceptive discussion of seismic (and other geological) hazards, when combined with the EIR's statement of Project purpose on that subject, discloses a number of contradictions.

BCHD must have been aware of the inadequacies in their EIR, as well as the contradictions within the EIR. cursory, inaccurate, and inadequate facts, with misleading discussion and analysis, are not what the decision makers or the public deserve from an EIR.

This EIR is not in compliance with CEQA. At all. The EIR is invalid.

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2) Applicable law.

Title 14, California Code of Regulations, §15020 states:

“A public agency must meet its own responsibilities under CEQA and shall not rely on comments from other public agencies or private citizens as a substitute for work CEQA requires the Lead Agency to accomplish.

“For example, a Lead Agency is responsible for the adequacy of its environmental documents. The Lead Agency shall not knowingly release a deficient document hoping that public comments will correct defects in the document.” (Emphasis added).

Here, BCHD did what is prohibited. In releasing the EIR BCHD “knowingly release a deficient document...”, hoping the public would either do its work for it, or, more chillingly, not find the many deficiencies in the EIR. This malfeasance in the EIR by BCHD alone merits invalidation of the entire EIR.

Title 14, California Code of Regulations, §15121 provides that the **“EIR is an informational document which will inform public agency decision makers and the public...”** (Emphasis added)

Releasing a deficient EIR does the exact opposite of informing the public.

Title 14, California Code of Regulations, §15120 (a) makes mandatory inclusion in the EIR all of the information and discussion required by the regulations (The EIR “.... shall contain the information outlined in this article...”)

Title 14, California Code of Regulations, §15120 (c) provides in pertinent part: “Draft EIRs shall contain the information required by Sections 15122 through 15131.”

Thus, BCHD was required by CEQA to discuss, disclose, and provide in the EIR at least the following under the regulations.

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Title 14, California Code of Regulations, §15124 (b) provides that the draft EIR is required to contain “A statement of the objectives sought by the proposed project.... The statement of objectives should include the underlying **purpose of the project...**” (Emphasis added)

Title 14, California Code of Regulations, §15125 (a) provides that the EIR “...must include a description of the physical environment in the vicinity of the project....” The **description provides “baseline” of physical conditions. The purpose of these requirements “...is to give the public and decision makers the most accurate and understandable picture...of the project’s likely near-term and long-term impacts.”** (Emphasis added)

Title 14, California Code of Regulations, §15125 (a)(3) provides that the “...existing conditions baseline...” shall “**not include hypothetical conditions.**” (Emphasis added)

Title 14, California Code of Regulations, §15126 requires that six different subjects, including the “Significant Environmental Effects of the Proposed Project” be discussed in the draft EIR (id, subsection (a)), and that they be discussed “...as directed in Sections 15126.2, 15126.4, and 15126.6, preferably in separate sections...”

Title 14, California Code of Regulations, §15126.2 (a) requires that the draft EIR “...shall identify and focus on the significant effects of the proposed project on the environment.” This section in detail requires that the draft EIR “**clearly identify and describe**” including, but not limited to:

- 1) Direct significant effects of the project on the environment short-term.
- 2) Direct significant effects of the project on the environment long-term.
- 3) Indirect significant effects of the project on the environment short-term.
- 4) Indirect significant effects of the project on the environment long-term.
- 5) The specifics of the resources involved.
- 6) The specifics of any physical changes.
- 7) Health and safety problems caused by the physical changes.

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- 8) The specifics of any alteration to ecological systems.
- 9) All other aspects of the resource base, including;
 - a. Water;
 - b. Historical resources;
 - c. Scenic quality, and;
 - d. Public services.” (Emphasis added)

RR8-6
(Cont.) Title 14, California Code of Regulations, §15126.4 requires that the EIR “...**shall describe feasible measures which could minimize significant adverse impacts...**” (Emphasis added)

Title 14, California Code of Regulations, §15126.6 requires that the draft EIR “...shall describe a range of **reasonable alternatives to the project, or to the location of the project...**” (Emphasis added)

3) Brief summary discussion of facts applied to law.

The law requires an EIR be produced that is informative. The EIR must fairly and accurately enable the public and decision makers to evaluate the facts, and then assess all options revealed by those facts. To that end, an “accurate and understandable picture” of the project is required. A “baseline” of the conditions which exist need be established, and it is important that it be accurate. And, critically, “hypothetical conditions” do not satisfy CEQA requirements.

RR8-7 Yet, here, the EIR failed to follow those rules. For example, the “location of the project” is wholly uncertain given the missing information, especially with the Well and toxic waste. Because of these deficiencies, decision makers and the public cannot find in the EIR those “feasible measures” which might “minimize” impacts. A factually bereft and truly hypothetical Project as described in this EIR is no project at all. (Id. at §§ 15121, 15125, and 15126, et. seq.)

This EIR deprives us all of necessary and legally required information. As such, no proper and fair determinations can be made from this EIR by the public and decision makers.

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The manner in which BCHD handled the Well issue alone, even before the EIR, especially ignoring comments made almost 2 years ago at the NOP stage, would vitiate this EIR. The Well issue is truly a “poster child” example of how not to comply with the requirements of CEQA.

Even worse, the EIR process discloses a sequence of seemingly feigned ignorance by BCHD about the Well's significance to all aspects of the Project. That is followed by the funding of an "11th hour" study, just before the release of the EIR, which study is not included in the EIR. Such conduct is unconscionable.

The EIR follows the same pattern regarding the "toxic waste site" on which the Project sits. And, ever-shifting facts surrounding the "seismic" concerns the Project seeks to remedy cloud the Project's "purpose". (Id. at § 15124)

In conclusion, what we are left with these things. An unstable Project. A Project which is not accurately described, and therefore where no baseline exists. The Project simply exists only in a fictional place.

The flowing words and interesting charts in the EIR are completely hypothetical. Unless and until the proposed in the Project is sufficiently ripe to be assessed in a realm of actual, complete facts, which the EIR fails to do, CEQA has not been complied with.

BCHD needs start over completely as this EIR is invalid.

B. The Manner in Which the Well was Dealt with by BCHD and Handled in the EIR Renders this EIR Fatally Flawed. The Project Cannot be Fairly Assessed Unless and Until the Well is Accurately Plotted. New Project plans and CEQA Required Assessments Will be Needed, Once Actual Facts are Obtained.

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1) BCHD Knew at All Relevant Times a Well Existed in
the Construction Zone for the Project; Perhaps as Much as Thirty
Years Ago.

More than three decades ago, on February 9, 1990, BCHD acquired the "Flagler Lot" upon which the Well sits. The transfer was accomplished by two separate "quit claim deeds". (Los Angeles County Registrar Recorder Document numbers 228500 and 228501)

The first of the two transfers was made to “South Bay Hospital District” (BCHD’s predecessor in interest) from “Petrorep Inc”. (Probably a typo on deed document. There was at that time in existence a Petro Pep Oil Company).

The second of the two transfers to BCHD were made from “Decalta International Corp”. Decalta was an oil and gas company. Each of the two companies which deeded the Flagler lot to BCHD appear to be subsidiaries of a sister company of one of the oldest and largest multinational oil companies on earth.

Moving well ahead in time, on May 15, 2019, Converse Consultants issued to BCHD a “Phase 1 Environmental Assessment Report” (which is referred to in the EIR, and will also be referenced here as “Converse (2019)”).

Converse (2019) apparently relied, especially in relation to the Well, exclusively on documents provided by BCHD, as well as on public records and then on interviews with BCHD executives (see, for example, page “vii” of Converse (2019).) No actual attempt to locate the Well was then made by Converse (2019).

In fact, much of the information found in Converse (2019) was derived from one Leslie Dickey. (Hereinafter referred to as “Dickey”). Dickey served (and serves now) as BCHD’s “Executive Director or Real Estate”.

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In pertinent part, Converse (2019) relates that Dickey “...provided title reports to the Property parcels, recorded easements with the City of Redondo Beach, a lease agreement with a tenant, and property parcel maps.” (At page 8 of Converse (2019))

The lease agreement disclosed that the Flagler Lot “...Property contains "an oil-drilling site".” (At page 8 of Converse (2019))

BCHD, as has become a pattern, through Dickey, minimized the Well issue and provided at best uniformed, and at worst misleading information. The report tells us that: “**According to the User representative, Mr. Dickey, an oil well was formally located on Parcel 2 but has since been designated as "plugged".**” (See page 8 of Converse (2019))

Then “**Mr. Dickey also stated that an oil well formerly operated on Parcel 2 and that he believed it was abandoned in accordance with all applicable regulatory standards.**” (At page 61 of Converse (2019), emphasis added)

These statements by Dickey, and their uncritical acceptance by Converse are crucial because the Dickey statements were both deliberately taken out of context, and they are in many respects simply false. Those flaws have bleed into the deficient EIR.

First, the context. At the time Dickey made the statements, the Project was well under way. In other words, BCHD (and Dickey when he spoke to Converse) knew that the Flagler Lot, on which the Well sits, would be part of a construction zone.

They knew that the Project would sit on the Well. Further, BCHD has spent more than one year of its annual revenue tax receipts (which means they have spent over \$4,000,000) to this point on the Project. BCHD has budgeted several million more dollars for the EIR alone. Those expenditures and that budget should be enough to locate the Well *before* the EIR was released.

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Second, the false statement. The claim Dickey made to Converse in 2019 that the Well complied with “all applicable regulatory standards” is untrue. The EIR itself tells us this.

At page 3.8-27 of the EIR the construction requirements that apply to an abandoned Well are identified.

In pertinent part, the EIR relates that “CalGEM” requires “....avoiding construction of permanent structures in close proximity to a well. CalGEM defines “*close proximity*” as being within 10 feet from a well. To be considered outside of close proximity, two adjacent sides of a development (e.g., a building) should be no less than 10 feet from the well, with the third side the development no less than 50 feet from the well. The third side should be no less than 50 feet from the well to allow room for the 30 to 40 feet lengths of tubing required for re-abandonment operations. The fourth side shall remain open to the well to allow for rig access in the event that the well requires maintenance or potential re-abandonment.”

BCHD, through Dickey, and Converse (2019) knew its statements and reports would make their way into an EIR. They knew the false information they were purveying was meant to be relied on by the public and decision makers. Yet, the Well issue was never properly assessed, neither in reality nor in the EIR.

As we will see, it gets worse.

its 2) BCHD Provides Contradictory Information About the Well, Existence, and Its Impact on the Project.

Converse (2019) left BCHD with a cautionary note (while also apparently “covering” itself). In their “opinions” section, Converse (2019) concluded, “...Concern for past impacts from well installation and **need for re-abandonment for future development are a concern.**” (At page 65, Converse (2019), emphasis added)

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As one might imagine, BCHD ignored that warning. Fully and completely.

The facts prove that conclusion. Recall BCHD knew in 1990 about the Well. BCHD knew even more Well details no later than May 15, 2019, the date when Converse (2019) was issued, as noted above.

Thus, the timeline shows BCHD knew it had a Well problem well in advance of the EIR. (Recall Converse (2019) was released on a date about **twenty-two (22) months** before the EIR was published)

Moving forward to February 26, 2020 (which is 9 ½ months after Converse (2019), but is still more than a year before the March, 2021 release of the EIR), a “Phase 2 Environmental Assessment Report” (which is referred to in the EIR, and will also be referenced here as “Converse (2020)”) was released.

In Converse (2020), at page 5, we are told unequivocally:

“The geophysical survey **did not identify the specific location of the former oil and gas well on the Flagler Lot**, so Department of Oil, Gas and Geothermal Resources (DOGGR) records were reviewed to **determine an approximate location**. Review of **agency records did not provide details** on the abandonment method of the plugged oil well.” (Emphasis added)

At this point in the saga, the Well has not been found, the location is uncertain, and BCHD is (they admit later) “rushing” to release its EIR.

BCHD continues to ignore the Well, and by December 2, 2020 we reach a point where over nine (9) months has passed since Converse (2020) was released. Plus, we are now over a year and one-half past when Converse (2019) told BCHD they had a Well problem.

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The June 17, 2020 meeting of the BCHD board is an event worth reviewing. There, BCHD revealed further details about its Project. Those included descriptions of the locations of planned Project construction and rough draft drawings. At all times, however, the Well is still missing.

Yet, we know, and the EIR at least admits the fact that the Project must comply with CalGEM requirements. Complying with those requirements would necessitate at least an informative and precise design process so that one would know building locations were not near the Well. Yet, the plans shown on June 17, 2020 (which has bled into the EIR, as those “plans” could not accurately describe the Project) did not account for the Well. Is it possible that one can design and construct a Project off of hypotheticals, given the Well location is still not known?

We know that is not possible. Still, during December, 2020, we still see the Project is rapidly proceeding. (In fact, at around that time, one Board member was publicly bemoaning the delay in the release of an EIR). Recall that at this time, it is obvious there is a necessity for more studies on the Well.

Withing that context, Dickey prepares for a December 2, 2020 BCHD Properties Committee meeting. Dickey provides a “Memorandum” dated November 18, 2020. (Found at page 11 of the agenda for that BCHD Property Committee meeting)

In that Memorandum document, Dickey expresses surprise that an oil well (in fact the Well) had been found on the Flagler Lot, and was even more surprised that no one had located it.

The subject line of the Memorandum reads:

“RECOMMEND APPROVAL TO THE BOARD OF DIRECTORS OF CONTRACT AWARD TO TERRA-PETRA IN THE AMOUNT OF \$ 73,686 TO PROVIDE CONSULTING & CONSTRUCTION SERVICES NECESSARY TO COMPLY WITH OIL WELL CLOSURE REGULATORY REQUIREMENTS” (Emphasis added)

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The “Background” section of the Memorandum, also found on page 11 of the agenda packet for the December 2, 2020 BCHD Property Committee meeting, states:

“As **part of the general research** of the Prospect Campus property in preparation for the design of the Healthy Living Campus (HLC) it was **discovered that an abandoned oilwell existed on the Flagler lot.** An initial attempt was made to locate the abandoned oil well from existing records, and **BCHD authorized Converse Consultants to search for the well by excavating in the general area where the well was expected. This attempt was not successful.** Subsequently, Terra-Petra was hired to perform a geophysical survey in the area and the **abandoned well was detected using a magnetometer.** There are **regulatory requirements when construction is planned near existing, abandoned oil wells.**

The **State of California regulates abandoned oil wells through the California Department of Conservation, Geologic Energy Management**

Division (CalGEM). Staff are recommending that Terra-Petra be hired to complete the required steps necessary to comply with the regulatory requirements to close the abandoned oil well. At the conclusion of the process, CalGEM will issue a letter indicating that BCHD has met the regulatory requirements.” (Emphasis added)

A readymade contract was attached to the memo. The committee adopted the recommendation and in a December 16, 2020 Board of Directors meeting, BCHD approved, with dissent, the expenditure of the requested \$73,686 as item X.C.1.

This December, 2020 sequence is stunning and merits careful review as it proves deception. Recall that Dickey told Converse (2019) that the Well “... **was abandoned in accordance with all applicable regulatory standards.**” (At page 61 of Converse (2019), emphasis added)

By December, 2020, however, Dickey states the exact opposite. He tells BCHD’s committees and board that: “**There are regulatory requirements when construction is planned near existing, abandoned oil wells.**” (Emphasis added)

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As we review the timeline at this point, by December, 2020 we are now about three (3) months before the EIR is released. And, we know BCHD is (by their own words) “rushing” to release it. Yet, for years, if not decades, BCHD knew about the Well, **and** BCHD knew the Project’s precise location and form of building would be dictated by the location of the Well. Still, the Well is never located; it’s position today still not clearly identified.

BCHD spends \$4,000,000 to get to this point in the CEQA process. And, all of the Project depends on the Well. The EIR cannot tell us what will be built and where without knowledge of the Well. Every component of the EIR is in question because of this issue of the Well. As will be detailed later, CEQA requires that "... existing conditions baseline shall not include hypothetical conditions..."

But, the EIR is just that: It relies on existing conditions which are purely hypothetical guess work because of lack of information about the Well location.

3) BCHD is also well Aware of Public Concerns about the Oil Well
from Comments to its NOP.

It is not enough that BCHD has lied about the status of the Well, we saw Mr. Dickey trying to explain why more money is needed; and, in the EIR where the claims about "designing around" the well are patently and demonstrably false.

Shockingly, BCHD in its EIR, and continuing until now, ignored comments from the public, and from a Responsible Agency affiliated with the CEQA process, requesting the Well be addressed in the EIR. It is worth noting that those comments were made by the public and by the responsible agency almost two (2) years ago. The demands that the Oil Well issue be addressed in the EIR were not, however, heeded.

Here are the facts. During June of 2019, the NOP for the Project was released. In comments to that NOP, at least the following will be found regarding the oil Well.

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1) A July 29, 2019 four (4) page letter from City of Torrance, signed by Oscar Martinez on behalf of Danny Santana. (Note: This letter is not included in the Appendix "A" to the EIR. It is briefly referenced therein, as discussed below).

a. The relevant part of the actual letter from Torrance reads as follows (from page 1 of their 4 page letter): "The City of Torrance Community Development Department would like to **ensure that the Draft Environmental Impact Report** Analyze the following:2) Air Quality/Identify all haul routes, delivery/staging routes **including soils remediation and oil well re-abandonment.**" (Emphasis added)

b. Here is how the EIR disposes of the July 29, 2019 comment to the NOP from the City of Torrance, a responsible agency. One cannot help but note that the full (4 pages of) content of the City of Torrance letter is not included in the EIR. Instead, portions were merely summarized, as follows (From Appendix "A" to the EIR, PDF page 96):

"City of Torrance, Danny Santana
(DS 1-23)
Letter 7/29/19 AES DS-1
AQ DS-2
BR DS-3
HAZ DS-4
NOI DS-5
TR
Construction
DS-6 through -10,
-14, -16 through 20"

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2) In addition, there were public comments to the NOP with reference to an "oil well", which we now know is the Well in question. They are listed here, as catalogued in EIR Appendix "A", some with added emphasis:

a. Appendix "A", PDF page 54: "The Project site is not located within an area with active or known mining operations; however, **an abandoned oil well exists on the Project site** located on the vacant Flagler Lot."

b. Appendix "A", PDF page 89, from BCHD's consultant Wood own (possibly) July, 2019 (there is no date on the document) "Scoping Meeting" which states:
"Hazardous Materials:

Abandoned oil well on Flagler
Lot; former UST; demolition
debris; construction equipment
and materials."

c. Appendix "A", PDF page 144, from Elizabeth Ziegler public comment, which BCHD labelled as "HAZ": "The EIR should **address health and safety risks due to the previous oil well and should ensure that sufficient protections are in place prior to development.** HAZ"

d. Appendix "A", PDF page 145, from Melanie Cohen public comment, which BCHD labelled as "HAZ": "The EIR should **address health and safety risks due to the previous oil well and should ensure that the site is remediated prior to development.** HAZ"

e. Appendix "A", PDF page 400, from Robert Ronne public comment, page 16 of July 22, 2019 letter, which BCHD labelled as "RR-135": "Similarly, fire services, especially for toxic releases (with **excavation of old oil wells** and demolition of old, perhaps asbestos filled buildings which might ignite) will be needed."

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f. Appendix "A", PDF page 498, from Susan Yano public comment letter, which BCHD labelled as "SY-3": "4. **An old capped oil well sits on a vacant lot at the corner of Flagler and Beryl.** The BCHD proposes putting a child development facility on or near that corner. What contaminants are in the soil? What carcinogens are in the soil? If so, how will that soil be removed? How much soil would have to be removed? What regulations must be followed in removing contaminated soil? How does BCHD guarantee the safety of the children at the facility if there is contaminated soil?

g. Appendix "A", PDF page 499, from Susan Yano public comment letter, which BCHD labelled as "SY-4": "4. Would **removal of the capped oil well** in any way affect water quality in the area?"

By brazenly ignoring the Oil Well until after the EIR was released, perhaps BCHD hoped "no one would notice" the Well. How is this explained when BCHD has spent over \$4,000,000 on the process, including EIR to this point?

The facts are not in dispute. BCHD, and its consultant, Wood, had knowledge of the Well, and the reabonnement issue, from numerous sources for over more than a year before the EIR is released.

Indeed, it bears repeating: A responsible agency (Torrance), **asked** specifically for the Well issues to be addressed in the EIR.

Yet, BCHD ignores the Well issue for over a year, necessitating an "emergency" \$70,000+ allocation to "study" it. But, they did so after it was "too late" to include such studies in the EIR. Of course, BCHD could have delayed the release of the EIR; in fact, that delay was required. But, we know through other public comments that BCHD is committed to the Project

and has already approved it. We also know through their Board Chair stating “on the record” in a public meeting that they are “in a rush” to get construction on this Project going.

The EIR is neither objective nor valid. The EIR must be withdrawn.

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*4) The Location of the Well is Not Accurately Disclosed in the
EIR. As Almost Every Aspect of the Project Depends on Where the Well
is Actually Located, There is No Current Project Which Can
Be Assessed by the EIR.*

To this day, we don’t actually know where the Well is located. The EIR tries to “cover up” this fact with numerous contradictory statements. Simply, things do not add up in the EIR with regard to the Well.

Take, for example, the EIR at page 3.8-13. There it is stated: “Terra-Petra Environmental Engineering (Terra-Petra) conducted a **geophysical survey of the Project site in September 2020** using a magnetometer for the purpose of locating the former oil and gas well on the property. A significant **magnetic anomaly suspected to be the oil and gas well** was identified approximately 30-feet east of the western fence boundary and approximately 30 feet north of the toe of the slope at the vacant Flagler Lot. **Terra-Petra excavated the well to physically locate it.**” (Emphasis added)

If there was an actual “excavation”, wouldn’t we know exactly the parameters of the Well and its relation to the Project? Where is the written report of that “excavation”? Where are photos? The EIR is thousands of pages, if the count includes appendices. Why is the most crucial survey, the one on the Well, missing? (Note also that while Terra-Petra is briefly mentioned in the EIR, no reference is made to any exhibit or document which shows what Terra-Petra did at all. There is no proof in the EIR of their work regarding the Well.)

The EIR seems to claim that Terra-Petra did the work in “September 2020”, and that we simply await a “survey”. If, as the EIR proclaims, Terra-Petra had finished its work on the Well in September of 2020, why during November of 2020 is Dickey proposing a separate contract and expenditure of tens of thousands of dollars to “find” a Well that had already been located? Why, on December 16, 2020, does the BCHD Board of Directors authorize expending what is apparently wasted money?

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And, why don't we have, in the EIR, an actual description of **exactly** where the Well is, and how it impacts the Project? Instead, all we are left with in the EIR is a "magnetic anomaly" which is "suspected" of being the Well.

If the woefully inadequate information in the EIR was not enough, the EIR goes on to boldly state as "fact" information about the Well which must instead be deemed false and deceptive.

In that regard, the EIR states in pertinent part at page 3.8-27: "The proposed **Project has been designed to comply** with all applicable CalGEM recommendations...The proposed Project has been designed to meet these criteria by **restricting development in this area on the vacant Flagler Lot to the one-way driveway and pick-up/drop-off zone rather than a habitable structure.**" (Emphasis added)

How can a Project be "designed" around a Well as to which the location is unknown? It is not possible. It bears repeating: The Well location is not accurately described in any part of the EIR. It is not depicted on any map or figure in EIR. **In fact, it is undisputed the Well hasn't been located.**

A vague "suspicion", buttressed by phantom "excavations" (where are the photos of the excavated well?) and "magnetic anomalies" make for a good UFO story. But, the only fair conclusion is that these "facts" make for a woefully deficient EIR.

The most stunning statement is found in the EIR at page 3.8-27. There, the conclusion is reached that the Project is "...**restricting development in this area on the vacant Flagler Lot to the one-way driveway and pick-up/drop-off zone rather than a habitable structure.**"

That makes no sense. The description of where the "magnetic anomaly" is located is at least 100 feet, if not more, from the entry point on Flagler Lane of the "one-way" Flagler driveway.

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The deception is compounded in the "Design Guidelines" for the Project.

There, an architect provides a “Health Living Campus Master Plan” (draft of March 8, 2021), which contain some drawings. In that document one will find a large number of maps which have “dots” confidently placed on them.

Those “dots” allegedly depict the Well. (See, e.g., p. 104 of the Design Guidelines) The “dot” location is also hundreds of feet from the entry to the “one way driveway” from Flagler. The “dot” is not supported by any document. The “dot” may (or may not be) in the same place as the EIR description.

We know these things for sure: There is no evidence that the “dot” reflects the actual location of the Well. And, the presence of a Well restricts building dramatically. The Well must be found before accurate drawings can be made.

The “Health Living Campus Master Plan” (draft of March 8, 2021), and its drawings and dots, thus become, at best, fictitious cartoon figures. Nothing in the EIR shows an accurate Project plan. We cannot know where construction and building locations for the Project are to be situated without knowing more about the Well.

In short, the EIR relies on “hypothetical” circumstances (which are in fact guesses) about where the Well is. 14 California Code of Regulations, §15125 (a)(3) states in pertinent part that “... existing conditions baseline shall not include hypothetical conditions...” Yet, the EIR blatantly violated this rule.

The Project design as stated in the EIR has buildings and access points which are based on “suspected” Well locations and derived from “magnetic anomalies”. Claimed “excavations” cannot be located anywhere in the EIR. Any assertion in the EIR that the Project is “designed” around a Well that has not been located cannot be true.

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5) Conclusion.

No accurate “existing conditions baseline” for the proposed Project actually exists. The conditions described in the EIR and accompanying documents are purely “hypothetical.” The EIR released March, 2021 is not something which decision makers and the public can be informed by. The EIR should be withdrawn, or at a bare minimum, the EIR need be recirculated.

14 California Code of Regulations, §15088.5 states: “A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification.””

The EIR as currently written is invalid, and the Project cannot proceed.

C. The Description of Certain Hazards in the EIR is Incomplete at Best; and, Misleading at Worst.

1) Introduction.

There is no dispute that the Project is proposed to be built on and over ground which is contaminated with harmful chemicals, among them what is commonly called PCE, as well as chloroform and benzene.

Each and every one of those hazardous substances can cause serious injury or death if humans are exposed to it, and some are carcinogens.

It is equally undisputed that PCE was located in 96.7% of the soil- vapor samples reviewed in Converse (2020). Further, the levels of PCE detected were in amounts up to 150 times the allowable screening levels. Similarly, chloroform was found at up to 13 times allowable levels, while benzene was present in concentrations at a high of over 6 times maximum levels.

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The EIR, at page 3.8-4, tells us how humans react to PCE:

“The effects of PCE on human health depend greatly on the length and frequency of exposure. Short-term, high-level inhalation exposure (i.e., in confined spaces) can **result in irritation of the upper respiratory tracts and eyes, kidney dysfunction, and neurological effects.** Long-term exposure (e.g., in confined spaces) can result in neurological impacts including **impaired cognitive and motor neurobehavioral performance as well as adverse effects in the kidney, liver, immune system and hematologic system, and on development and reproduction** (U.S. Environmental Protection Agency [USEPA] 2016).” (Emphasis added)

There is no dispute that up to 600 school children (ages 5 to 10) are “downwind” of these toxic chemicals, and that their school is within 300 feet of the proposed Project. As are perhaps thousands of frail older people. (The school alluded to is just one of 11 in close proximity to the Project) Again, however, BCHD has done all it can in the EIR to minimize or obfuscate the hazardous substances issue.

2) The Hazardous Findings are Not Fully Described, or
are Ignored in the EIR.

In the EIR, at page 3.8-8, we are told this about hazardous chemicals found on the Project site:

“Of the 10 soil borings located on the existing BCHD campus, 9 were completed to a depth of 15 feet below ground surface (bgs). The other soil boring, which was located within the northern surface parking lot along the border with the Redondo Village Shopping Center, was completed to a depth of 30 feet bgs. This oil boring (i.e., B-1; see Figure 3.8-1) was completed to a greater depth in order to investigate the potential for the migration of potential PCE contamination from the former dry cleaner at 1232 Beryl Street. The 5 soil borings within the vacant Flagler Lot were completed to a depth of 15 feet bgs.”

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A few introductory notes. The “B-1” sample references a 30-foot boring. The B-1 boring site is far away from where the main contaminants are found. In that vein, the lesser borings of 15 feet were all done in areas where there was more pollution, and where Converse told BCHD that deeper borings would find more hazardous chemical substances.

BCHD was well aware of these facts, and ignored them.

Consider portions of page 7, Converse (2020):

“On October 22 and 23rd, 2019, a **total of 15 borings** were completed using directpush (Geoprobe) drilling methods. **One (1) boring (BC1) was completed to a depth of 30-feet bgs. The other 14 borings (BC2 through BC15) were completed to depths of 15-feet bgs.** The approximate boring locations are indicated on Figure 3, Sample Locations.” (Emphasis added)

Also, some excerpts from pages 11-12, Converse (2020):

“Benzene was detected in two (2) samples. Sample BC7-5 had a concentration of 8.0 micrograms per cubic meter (ug/m3). The concentration exceeds the residential SL for

benzene of 3.2 ug/m3, but is below the SL for commercial land use of 14 ug/m3. Sample **BC6-15 had a benzene concentration of 22 ug/m3 which exceeds both the residential and commercial SLs.**

“Chloroform was detected in four (4) samples, BC4-15, BC9-5, BC10-5, and BC10-15 at concentrations of 8, 54, 27, and 26 ug/m3, respectively. **All of these concentrations exceed the residential SL of 4.1 ug/m3, and with the exception of sample BC4-15, the concentrations also exceeded the commercial SL of 18 ug/m3.**

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“PCE was detected in 29 of the 30 soil-vapor samples at a maximum concentration of 2,290 ug/m3 in sample BC14-15. Five (5) of the reported concentrations are less than the residential SL of 15 ug/m3, and concentrations in 4 of the samples exceeded the residential SL but are less than the commercial SL of 67 ug/m3. **The remaining 20 concentrations exceed the commercial SL.**” (Emphasis added)

Continuing, here is what Converse (2020), at page 18, tells us in pertinent part:

“PCE was detected in 29 of the 30 soil-vapor samples at a maximum concentration of 2,290 ug/m3. Twenty-four (24) of the reported concentrations are greater than the residential SL of 15 ug/m3. **The highest concentrations were generally detected in deeper samples from locations near the former drycleaner** (BC7, BC12, BC13, BC14, and BC15).

“Benzene was detected in two (2) samples (BC6-15 and BC7-5) at a maximum concentration of 22 ug/m3, which both exceed the residential SL of 3.2 ug/m3.

“Chloroform was detected in four (4) samples (BC4-15, BC9-5, BC10-5, and BC10-15) at a maximum concentration of 54 ug/m3. All of these concentrations exceed the residential SL of 4.1 ug/m3.” (Emphasis added)

It bears repeating. The **only** 30 foot boring, at B-1, which was known to be far away from where the main contaminants were found, seemed to be a deliberate attempt to avoid

finding more contaminants. More harmful chemicals were almost certain to be found with proper investigation and study in and at depth.

Further, the EIR's conclusions in section 3.9 about groundwater not being contaminated by PCEs (see generally page 3.9-14) must be viewed skeptically. Such a conclusion cannot be credited as deeper boring is needed.

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In that regard, Converse (2020) advised unequivocally: Deeper borings in the locations where pollutants were found would yield even greater findings of more pollutants. BCHD knew this.

For a proper EIR, more borings at depth were needed. Otherwise, the EIR is uninformative, hypothetical, and provides a less than accurate picture of the details of the conditions at the site of the Project.

To make matters worse, these facts were brought to the attention of BCHD and their counsel. The promise was it would be "addressed in the EIR". The hazardous substances were instead ignored, as next discussed.

*3) Ignoring the Nature and Extent of the Hazardous Substances
is Even More Egregious, Given BCHD's and Their
Attorney's Knowledge of Same.*

On March 30, 2020, a concerned citizen who had read portions of Converse (2020) wrote to the CEO of BCHD about this issue. The CEO replied, and shortly thereafter, on April 9, 2020, so did one Mr. Rothman, an attorney for BCHD. The attorney's reply stated in part as follows:

"BCHD will continue to address the issues and concerns regarding the sampling results contained in the Converse report in at least two ways: (1) engaging directly with appropriate state and local agencies with respect to addressing any regulatory considerations; and (2) as part of the Environmental Impact Report (EIR) process associated with the proposed Healthy Living Campus project." (Emphasis added)

But, in the EIR there is exactly no evidence that the necessary deeper boring samples were accomplished, let alone more testing done in the locations where pollutants actually existed.

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On April 27, 2020, the concerned citizen replied to Mr. Rothman's letter. The April 27, 2020 citizen response is lengthy, and here are some highlights:

"Further, both you and Mr. Bakaly avoid the fact that PCE was found in amounts up to 150 times the permitted screening levels." (From page 4)

The concerned citizen continues:

RR8-9
(Cont.)
"Each of you ignore the fact that even though the deeper Converse sampled, the more pollution was found. BCHD elected for whatever reason to not dig deeper. In short, BCHD simply ignored (and continues to ignore) the problem.

"You and Mr. Bakaly do not discuss the fact that toxic, harmful chemicals were found all over BCHD property. One boring showed pollutants at the extreme western edge of BCHD land, a point very far (and uphill) from the dry cleaner." (From page 5).

Tellingly, now a year later, still no response was ever received to this letter. And, as we know, despite a promise to do so, sadly, the EIR addressed none of these crucial issues.

4) The EIR is Incomplete Without Further Studies.

The EIR confirms that nothing was done to determine the actual extent of the migration of hazardous substances, or whether they had leached into groundwater. There was no deeper drilling, which may well have been a deliberate decision to avoid finding the full extent of the toxic waste issue.

The EIR discussion of these chemical hazards is evasive, incomplete, and appears to seek to mislead. In short, the EIR does not comply with CEQA as it continues to provide a hypothetical, inadequate discussion where the required baseline is missing. The EIR need be withdrawn, as noted above.

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D. The Description of Seismic Hazards in the EIR is Incomplete at Best; Misleading at Worst; and, is Falsely Used to Justify the Project.

Title 14, California Code of Regulations, §15124 (b) provides that the draft EIR is required to contain “A statement of the objectives sought by the proposed project.... The statement of objectives should include the underlying **purpose of the project...**” (Emphasis added)

RR8-10 In the EIR, the very first “bullet point” regarding the “purpose” of the Project, BCHD states the Project is needed to: “Eliminate seismic safety and other hazards of the former South Bay Hospital Building (514 North Prospect Avenue).” (EIR at page 2-24). While this topic of purpose is addressed elsewhere also, in summary form it is placed here as it is pertinent to the discussion, particularly, but not solely related to the veracity (or lack thereof) of BCHD and their EIR.

The evidence is, and the EIR itself reveals that “seismic safety” is a false statement used to justify the Project and its purpose. Four (4) reasons, any one of which is enough to show deliberate deceit by BCHD, exist which prove this point.

1) There is no requirement that BCHD “eliminate” any
perceived seismic issue.

The pertinent part of the EIR, at page 3.6-10 notes:

“In October 2015, the City of Los Angeles adopted Ordinance 183893 requiring Mandatory Earthquake Hazard Reduction in Existing Non-Ductile Concrete Buildings (Section 2, Division 95, or Article 1 of Chapter IX of the Los Angeles Municipal Code). Although **neither Redondo Beach nor Torrance have adopted a similar ordinance...**” (Emphasis added)

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RR8-11 2) The “Purpose” Statement Discriminates Between Occupants
of Two Unsafe Building, Intending to Protect One (In Which the
Board Meets), While Indefinitely Deferring Protection for the Other.

The “purpose” statement references only “514 North Prospect Avenue” as subject to seismic remediation by virtue of the Project. Yet, BCHD has a second building, an “Imaging Center”, which is a seismic hazard. BCHD does not commit to remediating the seismic hazard in the second building, and it appears that will never occur.

The EIR confirms this fact. While the EIR confirms there is another seismically unsafe building, that second building is not identified as being protected in the purpose statement. From portions of page 3.6-24 of the EIR:

“As previously described, the Project site is located within the seismically active region of Southern California. During an earthquake along any of the nearby faults (e.g., Palos Verdes Fault and Newport – Inglewood Fault), strong seismic ground-shaking has the potential to affect the existing buildings located at the Project site – **including ... the Beach Cities Advanced Imaging (sic) Building, which do not meet the most recent seismic requirements...**” (Emphasis added)

Yet, BCHD has no plans to protect persons at the Imaging Center from harm or death caused by seismic events. Again, from the EIR, at 3.6-24:

“...the potential demolition of the Beach Cities Advanced Imagine (sic) Building during Phase 2 would also accomplish these goals.” (Emphasis added)

Note the word “potential”. Note also the lives of those in the “Imaging” building are a Phase 2 priority. BCHD has made repeated claims that there is “no funding” for phase 2. Phase 2 is in the indefinite future. We know what that means for the fate of Imaging Center occupants.

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How can seismic safety be a legitimate “purpose” when BCHD plans to selectively (and apparently arbitrarily) determine who will be “protected” and who will not be by the Project? We know there are at least two groups claimed in the EIR to be “at risk” from seismic events. We also know at least one group will not be protected by the Project.

Thus, the “purpose” statement is not accurate, and the credibility of the entire EIR is in question.

3) If There were an Actual Seismic Hazard to Anyone; BCHD has
a _____ Number of Options Other than the Project to Address it.

If seismic safety were a real problem, BCHD has the wherewithal to remediate it, and to do so now. The proposed Project is an indefinite, uncertain, and speculative way to solve a seismic problem. Especially with a “problem” of seismic safety which, as we have seen in other public comments, has been decades in the making.

RR8-12 (Cont.) The Project is neither needed, nor even the best way, to solve any “seismic safety” issues. For example, BCHD has over \$25,000,000 on hand to apply to seismic safety. They could use that money. Or, BCHD could cut expenses and prioritize seismic safety. And, BCHD, as a Health District, has both the power to tax (in fact, they receive over \$300,000 per month in tax revenue currently); and, they have the power to borrow under the law. In short, BCHD could solve “seismic safety” issues, if they exist now, today, if they actually wanted to.

4) BCHD Treats a Decades Old Problem They Have Continually Ignored as an Issue only the Project can Resolve. That Position is an Artificial Creation Meant to Justify an Unneeded Project.

RR8-13 Finally, BCHD presents the seismic issue as if it were a new, immediate, and unexpected problem. More than two decades ago, in 1998, the Los Angeles Times (link here <https://www.latimes.com/archives/la-xpm-1998-mar-31-me-34566-story.html>) reported as follows with regard to BCHD:

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“In addition, the **district had commissioned a seismic report**, which put the costs of mandatory earthquake safety improvements as high as \$39 million--if the facility remains an acute care hospital.

"The hospital's **poor track record** in attracting patients and **its high seismic price tag** apparently discouraged most would-be new operators. A firm hired by the district **to seek new tenants for the hospital yielded only four proposals**--the one from Little Company of Mary and **two others from companies that wanted to tear down the facility and build assisted-living complexes for the elderly**. No one, except the **physician's coalition,** **offered to keep the place running as a full-service hospital.**" (Emphasis added)

None of the EIR “purpose” criteria ring true.

E. Conclusion.

For all of these reasons, the EIR is improper and has no effect. The EIR is invalid, it should be withdrawn, and in all events this Project may not proceed.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:32 PM
To: Meisinger, Nick
Subject: Fw: EIR Public Comment; Purpose and Objective
Attachments: 2021.06.04.Purpose.Necessity.Final.No.Ltr.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Friday, June 4, 2021 4:53 PM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: EIR Public Comment; Purpose and Objective

June 4, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are my public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
r.ronne.apc@gmail.com

June 4, 2021

BY OVERNIGHT DELIVERY AND E-MAIL (EIR@bchd.org)

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: Public Comments on EIR, Including Directed to Purpose and Objective Statements Found and Discussed in EIR Sections 1.3, 2.4.3, and 5.4

Dear Mr. Meisinger:

It is my understanding that you are the proper person to whom public comments on a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” should be addressed

RR9-1 It is my further understanding that the process, including assessment and preparation of the Environmental Impact Report, are governed by all applicable law and regulations, including but not limited to the California Environmental Quality Act (“CEQA”, California Public Resources Code, §§ 21000, et. seq.) and the regulations promulgated thereunder (14 CCR §§ 15000, et. seq.); and, that the Environmental Impact Report, to be valid, must comply with each applicable law and regulation.

If I am mistaken in any assumptions, please advise immediately. My public comments on the Environmental Impact Report follow.

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1. Introduction.

A. Purpose of the EIR Process and the Role of Public Comment.

RR9-2 In a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” (herein “EIR”), the Beach Cities Health District (herein “BCHD”) claims to propose a massive development plan (the “Project”).

The purpose of the CEQA process is to insure that as a whole: “All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation.” (14 CCR § 15126).

RR9-2
(Cont.)

In that regard, public participation is "...an essential part of the CEQA process". (14 CCR § 15201). Indeed, in the process "... the public holds a 'privileged position'...", which is based "...on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making." (See generally *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929.)

B. Purpose of These Public Comments.

A fair review of the record and process to date, including the EIR, discloses that BCHD has made every effort to avoid that CEQA required careful, comprehensive, and detailed review of their proposed Project.

This public comment to the EIR, as well as others which will be submitted, are intended to generally require the EIR to be withdrawn as it is factually and legally deficient, and hence fatally flawed. Specifically, the public comments below are meant to reveal certain errors, omissions, or other defects in the legally required discussion of Project purpose and objectives, which are found in Sections 1.3, 2.4.3, and 5.4 of the EIR. These public comments are not limited to those sections, however, but are meant to be as broad a comment on the EIR as is legally permissible.

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2. THE EIR'S STATEMENT OF PURPOSE AND OBJECTIVES FAILS TO COMPLY WITH CEQA.

A. Introduction.

1) Background.

RR9-3

CEQA requires the EIR contain "A statement of the objectives sought by the proposed project...", which "...**statement of objectives should include** the underlying **purpose of the project...**". (Title 14, California Code of Regulations, §15124 (b). Emphasis added)

2) Summary of Deficiencies in EIR "Purpose" Statement.

While the EIR nominally provided a "statement" of objectives which mentioned some of the purposes of the Project, the statement provided is completely misleading. Beyond that, the EIR fails to disclose that the main alleged "purpose" set forth for the Project cannot (and need not) be accomplished at all, let alone by this Project. Releasing an EIR which contains a deceptive statement of objectives and purpose does not comport with CEQA.

Essentially, there are three (3) underlying purposes stated in the EIR. (Even though there is a list of six purposes, the EIR itself in summarizing same coalesces the actual reasons down to three). Each of the three reasons gleaned from the Project objectives list are summarized below, along with some reasons why each claimed Project “objective/purpose” listed in the EIR *cannot* be true:

“Seismic Safety”

The EIR attempts to play on the fears of the reader by listing “Seismic Safety” as the very first purpose of the Project. While enhancing “Seismic Safety” in general is a laudable societal activity, for multiple reasons, the Project fails to promote “seismic safety”. Here are some of reasons why the Project does not accomplish this stated purpose:

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- The EIR tells us that in fact BCHD intends to use the Project to ignore actual seismic hazards. All the Project will do is maybe, in the distant future, provide the “potential” to address claimed seismic safety issues. In addition, the EIR reminds us that the proposed Project remains in the realm of pure speculation. This is so because all portions of the Project, including what will be built and how, are at most currently “conceptual”. The “Project” is thus a hypothetical, not capable of serving any purpose.
- The EIR also reveals that BCHD is under no requirement of any type to address “Seismic Safety” issues which may or may not exist in any of their existing buildings, through the proposed Project or otherwise.
- Any claimed “Seismic Safety” issues can in fact be (easily and better) addressed without the Project (and without any “teardowns”).
- “Seismic Safety” as an aspirational goal is one which BCHD has deliberately ignored for a (very) long time. Why would anyone propose a Project that does anything but address seismic safety while using the guise of seismic safety as a claimed “purpose”?

There is no connection between any need, purpose, or objective of this Project and “Seismic Safety”.

“Center of Excellence”

The second stated purpose, “establish a center of excellence”, is a mystery within an enigma. The phrase “center of excellence” is used a total of eight (8) times within the 972 pages of the EIR. Yet, nowhere are we told what is meant by the term “center of

excellence”. There are no benchmarks or metrics given as to what constitutes such a “center”. The EIR is silent as to what a “center” will consist of, how it will be accomplished, or when. The “center of excellence” phrase is merely repeated like an incantation, but it is one which has no defined meaning. What the “conceptual” Project does reveal is a potential construction of an RCFE. Not to be found in this EIR, however, is anything which goes to a “center of excellence” purpose.

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“Generate Sufficient Revenue”

A third goal of the Project is, bluntly, money. (Or, as the EIR puts it, to have the Project “generate sufficient revenue”). Yet, the EIR is devoid of any discussion as to how the Project might “generate” *any* money, let alone “sufficient revenue” for whatever purpose.

The omission of a financial discussion is deliberate. While BCHD might claim Project finances are “not a CEQA” issue, but BCHD puts them at issue and in all events they are important to judge how known and unknown environmental hazards of this Project will be addressed, and when.

BCHD is reluctant to tell us how the Project with “generate sufficient revenue” because they know that disclosing “the numbers” would reveal that the Project is much more likely to fail than to succeed in making money. And, with proposals to drill holes in toxic soil, with abandoned oil wells on site, and with biohazards from an old hospital (which the EIR tells us is filled with lead and asbestos) being demolished (in whole or part) means that the Project, especially if it financially fails, is bound to create an environmental catastrophe.

Thus, a full and fair discussion in the EIR of whether the Project will actually generate any, let alone “sufficient revenue”, is an essential to providing an understanding of whether the proposed Project will visit extreme environmental harm on the community once it fails (and there is more than a documented 90% chance it will fail). The EIR wholly fails to discuss this important aspect of the Project.

3) The EIR’s Purpose Statement in Full.

The objectives for and purpose of the Project are found in their entirety on only one (1) page of the 972-page EIR (excluding from the count one page of nonsubstantive “pillars” listed in preliminary observations). The “Project Objectives” discussion in its entirety is found in the EIR at page 2-24; PDF page 142 of 972. There it is stated verbatim:

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“Based on these Project Pillars, BCHD developed six Project Objectives:

“• **Eliminate seismic safety** and other hazards of the former South Bay Hospital Building (514 North Prospect Avenue).

“• Generate sufficient **revenue** through mission-derived services to replace revenues that will be lost from discontinued use of the former South Bay Hospital Building and support the current level of programs and services.

“• Provide sufficient public open space to accommodate programs that meet community health needs.

“• Address the growing need for assisted living with on-site facilities designed to be integrated with the broader community through intergenerational programs and shared gathering spaces.

“• Redevelop the Project site to create a modern campus with public open space and facilities designed to meet the future health needs of residents, with meeting spaces for public gatherings and interactive education.

“• **Generate sufficient revenue** through mission-derived services and facilities to address growing future community health needs.

“The **underlying purpose** of the proposed BCHD Healthy Living Campus Master Plan is to **solve the current seismic issues** associated with the former South Bay Hospital Building **and establish a center of excellence** for community health. Implementation of the proposed Project is intended to meet the six objectives described above and therefore achieve the underlying purpose of the proposed Project.” (Emphasis added)

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B. The Stated Purposes in the EIR Do Not Match the Project.

Seismic and, 1) *The “Seismic Safety” Illusion. The Description of Hazards in the EIR is Incomplete at Best; Misleading at Worst; is Falsely Used to Justify the Project.*

The first Project purpose, “Seismic Safety”, while admirable in the abstract, is not something the Project will promote. Instead, ironically, the EIR tells us the Project will actually ignore fixing known seismic safety issues.

Further, there is no legal requirement that any “seismic safety” issues, if they do exist on BCHD premises, be addressed through this Project, or through any other mechanism. In fact, the purported critical issue of “Seismic Safety” is a long-standing issue which BCHD has neglected for decades.

Finally, should BCHD, which is under no obligation to do so, wish to enhance seismic safety, there is nothing to prevent them from doing so without the Project. We see that in fact “seismic safety” is, and has been a lowest priority issue at BCHD. For anyone to assert that the Project is any “solution”, let alone the only solution to any seismic issues, is disingenuous at best.

Hence, the “seismic safety” purpose set forth in the EIR is demonstrably false. Support for that assertion is found in more detail below.

a. There are two buildings which the EIR identifies as hypothetical BCHD building candidates for seismic remediation. The Project might address one (the one in which the Board meets). Yet, protection for the second listed in the EIR is indefinitely deferred.

Using “seismic safety” as a Project purpose is beyond elitism and arrogance.

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The very first “bullet point” in the EIR regarding the “purpose” of the Project states that BCHD needs the Project to: “Eliminate seismic safety and other hazards of the former South Bay Hospital Building (514 North Prospect Avenue).” (EIR at page 2-24; PDF page 142 of 972)

That the “514” building is listed in the purpose statement of the EIR is telling. There is actually a *second building* discussed, but buried more deeply in the EIR, which is said to also be a “seismic safety hazard”. That second building will not be fixed by the Project. Conveniently, however, the “514” building which finds its way into the purpose statement as a “hazard” which will be addressed is the place where the BCHD Board of Directors meets.

That brings us to one of the (despicable) ironies of this Project. What kind of entity would attempt in its CEQA required “purpose” statement to justify the expenditure of hundreds of millions of dollars to “fix” **one** “seismic hazard” building, but not the similarly situated second building?

More painful is the fact the second “seismic safety hazard” building is merely one which is occupied by medical doctors, their staff, and patients. It is not one the Board of Directors uses for any purpose. One may take comfort that if the Project is built, the Board of Directors of BCHD will be in an earthquake safe setting while the doctors, staff, and patients in the second building will not be.

The second building on BCHD premises (the one which houses doctors, staff, and patients) is discussed in the following portions of the EIR at page 3.6-24; PDF page 430 of 972:

“As previously described, the Project site is located within the seismically active region of Southern California. During an earthquake along any of the nearby faults (e.g., Palos Verdes Fault and Newport – Inglewood Fault), strong seismic ground-shaking has the potential to affect the existing buildings located at the Project site – **including ... the Beach Cities Advanced Imaging (sic) Building, which do not meet the most recent seismic requirements...**” (Emphasis added)

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The EIR confirms that BCHD has no plans to protect persons at the Imaging Center from harm or death caused by earthquake. Again, from the EIR, at 3.6-24:

“...the potential demolition of the Beach Cities Advanced Imagine (sic) Building during Phase 2 would also accomplish these goals.” (Emphasis added)

Note the word “potential”. Note also the lives of those in the “Imaging” building are a Phase 2 priority. Phase 2 is in the indefinite future. We know what that means for the fate of Imaging Center occupants.

The discussion in the EIR also reminds us that the Project is an unstable, hypothetical project. The “seismic safety” purpose is a chimera. The EIR tells us (repeatedly) that the

Project is in fact not real. (“The conceptual architectural and landscape plan...”, EIR at page 2-34, PDF at 152. “The design remains conceptual”, the “Building design remains conceptual”. See the EIR at pages 3.1-58, 3.1-62, 3.1-69, corresponding to PDF pages 256, 260, and 267.)

How can seismic safety be a legitimate “purpose” when, even if the Project wasn’t hypothetical, we are told unequivocally that BCHD plans to selectively determine who is at risk from seismic events?

b. The EIR admits there is no legal requirement to “solve the current seismic issues”

We saw that even though the EIR tells us that the main purpose of the Project is to “solve the current seismic issues”, in fact the Project is intending to “solve” only one issue (the Board Room), not all “seismic issues” presented in the EIR.

It is essential to note that under all circumstances, BCHD is under no legal obligation whatsoever to “solve the current seismic issues”. (It is understood that BCHD claims the “moral” obligation to “eliminate” seismic hazards).

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The EIR exists in a different place, however. One wonders in what moral universe is it proper for the building in which the BCHD directors meet to be remediated, but to deliberately leave in harm’s way the building occupied by doctors, staff and patients? Moreover, the unremediated building is one from which BCHD will continue collect rent after Project completion. Is the Project really about “seismic safety”?

In any event, at page 3.6-10; PDF page 416 of 972 of the EIR it is confirmed that “solving seismic “issues” is not a legal obligation imposed on BCHD:

“In October 2015, the **City of Los Angeles adopted** Ordinance 183893 **requiring** Mandatory Earthquake Hazard Reduction in Existing Non-Ductile Concrete Buildings (Section 2, Division 95, or Article 1 of Chapter IX of the Los Angeles Municipal Code). Although **neither Redondo Beach nor Torrance have adopted a similar ordinance...**” (Emphasis added)

The EIR unequivocally concludes that the “purpose” of achieving seismic safety is optional. How can the Project be justified by an “optional” fix, particularly where (as here) any “conceptual” fix available under the Project is to be, at best, selectively applied?

c. The EIR discussion of BCHD's options other than the Project which are available to address any seismic concerns is both misleading and inadequate.

If "seismic safety" were an actual, real, or immediate problem, BCHD has the wherewithal to remediate it, and to do so now. The proposed Project is an indefinite, uncertain, and speculative way to solve a seismic problem; especially one, as we will detail, which has been decades in the making.

BCHD has over \$25,000,000 on hand to apply to seismic safety. BCHD could also cut expenses and prioritize seismic safety. Cutting costs is realistic. Note that out of BCHD's current budget of \$14,596,248, nearly 48% of that amount (\$6,948,479) is for payroll alone.

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And, BCHD, as a Health District, has under the law both the power to tax (in fact, they receive over \$300,000 per month in tax revenue currently); and, they have the power to borrow.

If "seismic safety" is a current concern which BCHD wishes to optionally address, they can do so by increasing revenue using their taxing power, by borrowing the money needed, or by cutting expenses.

What BCHD cannot do is lend a CEQA required "purpose" to a Project by effectively disabling itself from well known government entity options to accomplish the stated "seismic safety" objective.

d. BCHD has routinely and continually ignored any they only artificial "seismic safety" concerns in their buildings. Yet, portray the issue in the EIR as a pressing one which the Project can Resolve. Such a stance is an creation of purpose meant to justify an unneeded Project.

The EIR seems to present the "seismic" issue as if it were new, immediate, and unexpected problem for BCHD. The opposite is true.

Below is a link to an LA Times article from 1998, along with some quotes from same. Note that the seismic issues are long standing, belying the "sudden" need for this particular Project.

The article in the Times goes on to note the apparent rejection of two offers in 1998 to do then what BCHD proposes to do now decades later, "tear down the facility and build assisted-living complexes for the elderly".

“In addition, the **district had commissioned a seismic report**, which put the costs of mandatory earthquake safety improvements as high as \$39 million--if the facility remains an acute care hospital.

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"The hospital's **poor track record** in attracting patients and **its high seismic price tag** apparently discouraged most would-be new operators. A firm hired by the district **to seek new tenants for the hospital yielded only four proposals**--the one from Little Company of Mary and **two others from companies that wanted to tear down the facility and build assisted-living complexes for the elderly**. No one, except the **physician's coalition,** **offered to keep the place running as a full-service hospital.**" (Emphasis added) <https://www.latimes.com/archives/la-xpm-1998-mar-31-me-34566-story.html>

BCHD ignored what they now claim is a "seismic" problem for over 22 years. Now, decades later in their EIR, BCHD tries to claim as a purpose for the Project those very same issues which did not seem so important to them for a very long time. And, which they could have fixed 22 years ago.

The EIR may not manufacture a purpose for the Project out of a pre-existing issue which BCHD has neglected for decades and refused to remedy when offered.

e. The EIR does not address a basic earthquake retrofit.

Not only did BCHD ignore the seismic issues for decades, their EIR does not carefully discuss the myriad retrofits that can (if BCHD wishes to voluntarily do so) be accomplished.

Those fixes can include "no tear down" options (of which there are many). Instead, the EIR attempts to deceive by conflating the cost of retrofit and essentially a complete building remodel when discussing options and feasibility of no Project alternatives. From the EIR, at page 2-23; PDF page 141 of 972:

“The **combined** cost of seismic retrofit **and** renovation would render such a **dual undertaking** economically infeasible.” (Emphasis added)

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The EIR prefers to compare apples to oranges instead of isolating the achievable cost of a non-invasive, current earthquake retrofit. Such chicanery does not give the Project a legitimate “seismic safety” purpose.

f. In conclusion, the EIR does not establish a seismic safety purpose for the Project.

The Project is not justified by any claimed “seismic safety” purpose.

2) The Non-Existent “Center of Excellence”.

There is no “center of excellence” which can be found in the proposed Project, and none is actually discussed in the EIR. Instead, as noted above, the “center” is merely referenced in conclusory terms. There are no specifics about any “center for excellence” proposed by the Project.

The facts are that instead of a “center for excellence”, the vast majority of the cost and building construction of the Project relates to a massive RCFE.

In the EIR, there is a list four (4) items in the hypothetical, “conceptual” Project which fit within the building area. Note that the EIR carefully avoids providing totals of area or percentage of uses for each.

The four components of the Project (setting aside parking) are: The RCFE itself; a PACE facility; a “Community Services” function; and, a “Youth Wellness center”. (EIR, at page 2-27; PDF 145 of 972)

Those uses appear to total 536,770 square feet of building area. The Project thus proposes to engage in a massive construction endeavor in order to create something which is more than half the size of Staples Center and which consumes an area of space corresponding to just under 4 average size Costco buildings.

Of the total space created by the Project, the RCFE occupies over 94%. (The total square footage of 507,400 for the RCFE uses, divided by the total of 536,770 square feet, is 94.5%). Categorizing the other 6% of the total (in rounded numbers): PACE occupies about 2.6%; Community Services, 1.7%; and, Youth Wellness, 1.7%.

Hardly a well-rounded Project. And, where do we find a “center for excellence” in this space? Nowhere.

The Project “purpose” of a “center for excellence” cannot be found within the 972 pages of the EIR.

*3) With this Project, BCHD will Disappear from
Existence. The Project, however, Will Fail Economically, Creating an
Environmental Disaster.*

**a. The financial failure of the Project inevitably
causes secondary and irrevocable
environmental consequences.**

If you want the truth, “follow the money”. Yet, the EIR carefully avoids Project finances. Probably because BCHD will claim “it is not an EIR issue.” Yet, the EIR repeatedly states that it is not “cost effective” to achieve Project “purposes” without the Project. BCHD knows that the money trail tells a different, crucial story. Finances are relevant to Project impacts because the Project is high risk and will fail, leaving behind an environmental nightmare not discussed in the EIR.

Hence, an EIR discussion of a potential for a failed Project is needed. BCHD itself provides evidence that Project finances are relevant to revealing the Project’s long term and secondary impacts on the environment. Besides the pro forma and required geological, biological, and phased environmental studies which BCHD conducted, they also commissioned four (4) different financial “feasibility” studies over many years. Here are links to each of them:

https://www.bchdcampus.org/sites/default/files/archive-files/Cain%20Borthers_Financial%20Analysis_2020.pdf

https://www.bchdcampus.org/sites/default/files/archive-files/Market-Feasibility-Study_2019_0.pdf

https://www.bchdcampus.org/sites/default/files/archive-files/MARKET-FEASIBILITY-STUDY_AUG.2018.PDF.pdf

https://www.bchdcampus.org/sites/default/files/archive-files/Market-Feasibility-Study_2016.pdf

Of the four financial feasibility studies, 3 were done by an outfit called “MDS” (the 2016, 2018, and 2019) studies. Yet, for the final study, BCHD hired an investment bank, “Cain Brothers”, which presented a 2020 financial analysis. It is that last, 2020, document which BCHD uses to claim it will “make money on the Project”.

Here is what reviewing three metrics from each of the studies (capture rates, occupancy estimates, and room rates) tells us.

Capture rate:

In the 2016 study, MDS noted that a Project such is this “should not count on” capturing more than 20%” of the eligible “target population”. (MDS 2016, page 1-4)

In the 2018 study, MDS used identical wording, stating that a Project such is this “should not count on” capturing more than 20%” of the eligible “target population”. (MDS 2018, page 2)

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In the 2019 study, MDS essentially mimicked the earlier study, using similar early pagination and repeating that a Project such is this “should not count on” capturing more than 20%” of the eligible “target population”. (MDS 2019, page 1-4)

Occupancy Estimates:

In the 2016 study, MDS noted that a “project occupancy rate of 93%” is expected. (MDS 2016, page 1-5)

In the 2018 study, MDS maintained its “93% Occupancy” rate (MDS 2018, at page 9)

Similarly, in the 2019 study MDS also maintained its “93% Occupancy” rate (MDS 2019, page 1-5)

Room Rates:

In the 2016 study, MDS pegged proposed pricing for units in the Project at “\$6,6000 to \$12,900”. Also note that MDS surveyed prices of nine “major competitors”. Note also that the current Project pricing is both on the very high end of the MDS price assumption **and** is higher than any competitor except those “on the hill”, a (much) higher rent district. (MDS 2016, page 2-12)

In the 2018 study, MDS apparently **lowered** its estimated high-end pricing for units in the Project, using a range of “\$7,822 to \$10,294”. (MDS 2018, page 6)

In the 2019 study, MDS raised its estimated high-end pricing for units in the Project, but those prices still did not reach the 2016 high. Note that in this 2019 report, MDS again accounted for competitors and projected 2021 pricing at a range of “\$7,350 to \$12,250”. (MDS 2018, page 6)

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Cain 2020 Compared.

Cain 2020 “augmented” occupancy Estimates.

The first thing one notices is that Cain’s study is as opaque as one can make a financial report.

Here is a “poster child” example. Cain reviews, and essentially adopts the MDS metrics in general, and on occupancy specifically. In Cain’s “Key Assumptions”, at page 4 (PDF page 22 of 52), Cain 2020, it is asserted that “**93%** is a reasonable occupancy assumption...” (Emphasis added)

Yet, in all of their financial projections, Cain assumes **95%** occupancy rate for the RCFE planned in the Project. (Cain 2020, pages 13 and 14; PDF pages 40 and 41 of 52).

There is no explanation or justification given in Cain 2020 for elevating the occupancy rate from the “reasonable” 93% to an arbitrary 95%.

Cain 2020 room rate and capture rate assessment.

Cain assessed a 280 bed Project. Thus, to meet their 95% occupancy projection, BCHD needs to find 266 “qualified prospect” occupants willing to pay up to \$12,500 per bed (higher than the last MDS number).

(Notes: A “qualified prospect” is defined by Cain as someone over 75 years of age, with an income in excess of \$150,000, who has Alzheimer’s Disease/Related Dementia, or otherwise meets the needs assistance criteria. Cain 2020 at page 3 (PDF page 21 of 52) Finally, note that all numbers need to be “backed out” of the Cain 2020 report because of its lack of transparency).

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Cain assumes the Project will “absorb” about 70% of its “prospects” from their primary market area, which is an area within a five (5) mile radius of BCHD’s proposed building. That means there are only 186 “qualified prospects” in the primary area who want to live at the Project. (Note that in assuming that many “prospects” will reside in Project beds, Cain seems to ignore the MDS admonition that that a Project such is this “should not count on” capturing more than 20%” of the eligible “target population”)

To make up for the shortfall, Cain predicts that the other 80 “qualified prospects” will be “captured” for the Project from “other areas in the state of California and in-migration from outside the state.” (Cain 2020, “Key Assumptions”, at page 2 (PDF page 20 of 52)

Cain 2020 and a failed Project.

Why does Cain use a “projected”, artificial 95% occupancy when that is higher than the 93% which MDS assumed and Cain deemed “reasonable”; and, higher than a pre-pandemic 88% average occupancy rate? (according to the “National Investment Center for Seniors Housing & Care”.

<https://www.nic.org/news-press/seniors-housing-occupancy-rate-during-fourth-quarter-again-stable-at-88/>

Because BCHD will almost certainly lose money on this project. Recall that BCHD is at most a 25% “JV Partner” and probably BCHD will hold a 20% interest in the Project. (Cain 2020, pages 13 and 14; PDF pages 40 and 41 of 52)

Cain 2020 figures the Project will cost \$253,918,333.00 (Cain 2020, page 5; PDF page 32 of 52). The RCFE only, at 95% occupancy, if all goes perfectly according to plan (and if we ignore Cain 2020 projections the Project will lose tens of millions of dollars for years, and then forgive Cain for seemingly not using GAAP to accrue depreciation and the like), BCHD will make as little as \$854,483 per year. That is less than 0.5% return on the total Project cost, or put another way, for every \$10,000.00 spent building the 280 beds, BCHD receives \$47.12 per year. (Cain 2020, at pages 9, 13, and 14; pages 36, 40, and 41 of 52))

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Basic math shows us that if BCHD achieves 92% occupancy, their *annual profit total drops to \$93,745*. At 91.7% occupancy, BCHD loses \$16,523 annually on the \$253,918,333.00 building, forever. If BCHD fills the exact 88% average number of beds, they could *lose \$1,376,495 annually, forever*.

b. The Project’s joint venture means that BCHD will have already be a minority interest in any Project. Thus, even the hypothetical, admitted only “conceptual” Project will be something other than that discussed in the EIR.

BCHD essentially forever disappears if the “HLC” project is approved. As, at most, a 25% owner of the Project, it cannot be said that the EIR assesses a BCHD proposed Project.

And, how does building the largest (incompatible) structure in the area serve BCHD’s real purpose? Does BCHD exist so that, as a health district, it can turn public property over to a real estate developer and then fade away?

As noted, BCHD proposes to, at most, retain a 25% interest in several hundred-million-dollar Project. Where does that money come from? At what cost? And, by that not just financial. It should not take a financial or legal maven to conclude that a 25% interest means no control. Zero. The numbers (20-25% BCHD interest) guarantee that result. A separate, private entity will now have complete control over BCHD’s future and fate.

Boiled down to its essence, the EIR describes a Project where BCHD merely serves as a conduit to convert public land to a private purpose.

But, the public and private sectors are fundamentally different. Public entities provide services. Those services are governed by public preference (disputes are resolved during elections), and paid for by taxes. Private entities exist to make money. Period.

Nick Meisinger, re: Healthy Living Campus

June 4, 2021

Page Twenty

Thus, the public purpose of BCHD and the private purpose of whoever is selected to receive the largesse of a gift of public property proposed by the Project is in stark conflict. Is this a legitimate purpose of the Project?

C. Conclusion.

For all of these reasons, the EIR is legally and factually insufficient. As the EIR fails to comply with CEQA, it need be withdrawn fully.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:33 PM
To: Meisinger, Nick
Subject: Fw: EIR Public Comment; Inadequate Discussion of Secondary Impacts Invalidates EIR
Attachments: 2021.06.05.Secondary.Impacts.Final.No.Ltr.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Saturday, June 5, 2021 12:34 PM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: EIR Public Comment; Inadequate Discussion of Secondary Impacts Invalidates EIR

June 5, 2021.

Mr. Meisinger:

Attached in PDF format, and reproduced below my signature line, are my public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law.

Thank you for your attention to the above.

Thanks, Robert Ronne.

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
r.ronne.apc@gmail.com

June 5, 2021

BY E-MAIL ONLY (EIR@bchd.org)

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: Public Comments on EIR, Including Directed to Failure to Adequately Address Secondary Impacts in the EIR, in its Entirety

Dear Mr. Meisinger:

RR10-1 It is my understanding that you are the proper person to whom public comments on a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” should be addressed

It is my further understanding that the process, including assessment and preparation of the Environmental Impact Report, are governed by all applicable law and regulations, including but not limited to the California Environmental Quality Act (“CEQA”, California Public Resources Code, §§ 21000, et. seq.) and the regulations promulgated thereunder (14 CCR §§ 15000, et. seq.); and, that the Environmental Impact Report, to be valid, must comply with each applicable law and regulation.

If I am mistaken in any assumptions, please advise immediately. My public comments on the Environmental Impact Report follow.

Nick Meisinger, re: Healthy Living Campus
June 5, 2021
Page Two

1. Introduction.

A. Purpose of the EIR Process and the Role of Public Comment.

RR10-2 In a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” (herein “EIR”), the Beach Cities Health District (herein “BCHD”) claims to propose a massive development plan (the “Project”).

RR10-2
(Cont.)

The purpose of the CEQA process is to insure that as a whole: “All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation.” (14 CCR § 15126).

In that regard, public participation is “...an essential part of the CEQA process”. (14 CCR § 15201). Indeed, in the process “... the public holds a ‘privileged position’...”, which is based “...on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making.” (See generally *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929.)

B. Purpose of These Public Comments.

A fair review of the record and process to date, including the EIR, discloses that BCHD has made every effort to avoid that CEQA required careful, comprehensive, and detailed review of their proposed Project.

This public comment to the EIR, as well as others which will be submitted, are intended to generally require the EIR to be withdrawn as it is factually and legally deficient, and hence fatally flawed. Specifically, the public comments below are meant to reveal certain errors, omissions, or other defects in the legally required discussion of Project, including, but not limited to, the secondary impacts of the Project. This public comment is meant to be as broad as the law allows.

Nick Meisinger, re: Healthy Living Campus
June 5, 2021
Page Three

2. TO COMPLY WITH CEQA, THE EIR IS REQUIRED TO DISCUSS EACH, EVERY AND ALL SECONDARY IMPACTS OF THE PROJECT. THE FAILURE OF THE EIR TO DO SO RENDERS THE EIR VOID AS THE PROCESS IS ILLEGAL AND CEQA WAS NOT COMPLIED WITH.

14 CCR Section 15126.2 (d) (quoted in full below) provides:

RR10-3

“(d) Significant Irreversible Environmental Changes Which Would be Caused by the Proposed Project Should it be Implemented. Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, **particularly, secondary impacts** (such as highway improvement which provides access to a previously inaccessible area) generally **commit future generations to similar uses**. Also irreversible

damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.” (Emphasis added)

RR10-3
(Cont.)

The discussion of "secondary impacts" of the Project is required by CEQA, but that mandatory EIR discussion was effectively ignored in the EIR. In that regard, BCHD spends in their EIR less than 2 (of 972) pages engaging in the CEQA required discussion. (See section 4-3 of the EIR, starting at PDF page 837).

And, that discussion follows the “pattern and practice” of this EIR; the discussion is not fact based; the EIR ignores specifics and deals in vague generalities; and, the EIR dissembles, contorts, and ignores reality. In effect, the EIR concludes that the "secondary impacts" over the long term will be more beneficial than harmful.

Here are some examples (including, but not limited to) items ignored in the “secondary impact” EIR discussion.

Nick Meisinger, re: Healthy Living Campus
June 5, 2021
Page Four

A. The Eleven (11) Local Schools and the Young Children Attending Them.

-Summary.

By painting with a broad brush and ignoring specifics, BCHD fails to provide any detailed discussion of the safety issues, or the effect of “noise and vibration” admittedly created by the Project which occurs merely 350 feet from one of the 11 schools, Towers Elementary School.

RR10-4

By not being specific, BCHD hopes such impacts will either be ignored, or be seen as merely “inconvenient”. Providing details risks disclosing the significant environmental impacts, which evaluation BCHD seeks to avoid.

While noise and vibration may be a serious impact for a healthy adult, the impact on a child can be so negative, so life changing, such a future destroying event that it would be unconscionable to allow a project to impose those harmful impacts. Here are the facts which support that conclusion.

The local Torrance neighborhood invites over 500 elementary school children into it every day. We know that Towers Elementary School is identified in the in the EIR as close (350 feet) to the Project.

Essentially, school children are part of and actually “in” the Project.

The Towers demographic is 5 to 10-year-old kids. Again, by not being specific, BCHD avoids a discussion of the range of impacts and harms caused by “noise”.

Even a cursory review of that type of impact shows us that noise and vibration do not create a trivial impact on children. Rather, impacts are permanent, including learning deficiencies, along with physical and emotional harm.

Nick Meisinger, re: Healthy Living Campus
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-Impacts Ignored in EIR.

Noise.

The National Institute of Health supports this conclusion. Here is a portion of their findings on the hazards of “noise exposure” to the school age population:

“Observational and **experimental studies have shown that noise exposure impairs cognitive performance in schoolchildren**.... In this Review, **we stress the importance of adequate noise prevention and mitigation strategies for public health**”. (Emphasis added)
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3988259/>

Vibration.

Not only is noise a documented health hazard, vibrations are frightening as well. In light of recent events, we appear to be in an “active” period for earthquakes after decades of dormancy. Children may easily mistake construction vibrations for a life-threatening earthquake. That could be traumatic to a child in the extreme.

Particulates and air quality.

Another impact is particulates (dust and maybe more noxious elements), perhaps in aerosol form, all of which are particularly harmful to the young body. To make matters worse, the vast majority of the time, the prevailing winds flow directly over the project and onto and over Towers Elementary School, as well as nearby residential units. The influence of those sea driven winds is so pervasive that air pollution and particulates have

been discovered and scientifically documented to travel hundreds of miles inland. It is more than foreseeable that whatever air borne materials are generated by the project will travel the hundreds of feet to Towers and residents.

Nick Meisinger, re: Healthy Living Campus

June 5, 2021

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RR10-5 (Cont.) On top of that, all of the dust, aerosols, and other particulates will be emitted merely feet from a site where hundreds of children spend their entire day, much of it outside on the playground or open field (both of which are closest to the Project).

The elderly, many of whom are infirm.

Abutting the Project is a Torrance neighborhood where residents (some less than 100 feet away) may be at home all day. Some are very old, and this Project will not simply annoy them, but the impacts will include real harm.

Older residents are also more susceptible to the impacts of noise, vibration, and air quality. Such events include impacts which are fatal for a frail or elderly person. (No doubt BCHD current residents of their care home will also suffer from these impacts)

The National Institute of Health again speaks to the impacts of such hazards:

“Observational and **experimental studies have shown that noise exposure** leads to annoyance, **disturbs sleep** and causes daytime sleepiness, **affects patient outcomes and staff performance in hospitals, increases the occurrence of hypertension and cardiovascular disease...** In this Review, **we stress the importance of adequate noise prevention and mitigation strategies for public health**”. Emphasis added.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3988259/>

The EIR does not account for environmental accidents.

RR10-6 The failure of the EIR to address (in summary form, and not an all inclusive list) the Oil Well issue; the fact the Project sits on a toxic waste dump; the fact that lead, asbestos, and other pollutants will almost certainly be released into the air and water by the Project are dealt with elsewhere.

BCHD’s failure to address in the EIR as required by CEQA the long term, secondary impacts of any environmental “accidents” is more than shocking.

Nick Meisinger, re: Healthy Living Campus

June 5, 2021

Page Seven

RR10-6
(Cont.)

This failure of the EIR to discuss the long term, secondary impacts of any environmental “accidents” as required by CEQA was brought into solid focus by an April 15, 2021 water main break, Prospect and Del Amo intersection.

That break closed lanes, snarled traffic, and reduced water pressure. What will children, elderly, and BCHD’s proposed hundreds of people who require care do with washed out roads and lack of water?

The EIR doesn’t tell us.

Instead, the EIR tells us that the construction of the proposed Project would require even MORE water. This includes for use in dust control, equipment cleaning, soil excavation and export, and re-compaction and grading activities. (See at 3.15-15)

There are, however, no plans discussed in the EIR to account for “accidents”. There is no discussion in the EIR of secondary impacts, or any impacts for that matter, regarding harm to the environment, including vulnerable flora, fauna, or people in the Project zone of impact.

RR10-7

Instead, the EIR leaves us with this conundrum. Once the Project is operational, we are told that the “net average daily water demand” occasioned by its operation will “increase” by **millions** of gallons per year. The impacts of this were not evaluated, nor was the word “drought” mentioned, except to tell us the landscaping would include “drought tolerant” plants and other minor adjustments.

Yet, we are assured that “no upgrades to public water mains would be needed under the proposed Project” because “Cal Water’s potable water system has the infrastructure and the capacity to serve the proposed Project.” (See EIR at 3.15-18)

That EIR statement was proved wrong during the public comment period alone. Without the CEQA required discussion of secondary impacts of any environmental “accidents”, this EIR is invalid and the Project may not proceed.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:33 PM
To: Meisinger, Nick
Subject: Fw: EIR Public Comment; Failure to Address Public Comments on Validity and Efficacy of EIR; EIR is Invalid for Failure to Comply with CEQA
Attachments: 2021.06.06.Required.Reply.Final.No.Ltr.pdf

CAUTION: External email. Please do not click on links/attachments unless you know the content is genuine and safe.

From: Robert Ronne <r.ronne.apc@gmail.com>
Sent: Sunday, June 6, 2021 3:35 AM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <r.ronne.apc@gmail.com>
Subject: EIR Public Comment; Failure to Address Public Comments on Validity and Efficacy of EIR; EIR is Invalid for Failure to Comply with CEQA

Robert R. Ronne
LAW OFFICE OF ROBERT R. RONNE
Post Office Box 3211
Redondo Beach, CA 90277
r.ronne.apc@gmail.com

June 6, 2021

BY E-MAIL ONLY (EIR@bchd.org)

Wood Environment & Infrastructure Solutions, Inc.
9177 Sky Park Ct.
San Diego, CA 92123

Attention: Nick Meisinger re: Healthy Living Campus

Re: Public Comments on EIR, Including Directed to Validity and Efficacy of EIR in its Entirety; and Anticipatory Failure to Reply to Public Comments on Same and Failure to Address the Illegal Nature of the EIR.

Dear Mr. Meisinger:

It is my understanding that you are the proper person to whom public comments on a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” should be addressed

It is my further understanding that the process, including assessment and preparation of the Environmental Impact Report, are governed by all applicable law and regulations, including but not limited to the California Environmental Quality Act (“CEQA”, California Public Resources Code, §§ 21000, et. seq.) and the regulations promulgated thereunder (14 CCR §§ 15000, et. seq.); and, that the Environmental Impact Report, to be valid, must comply with each applicable law and regulation.

If I am mistaken in any assumptions, please advise immediately. My public comments on the Environmental Impact Report follow.

Nick Meisinger, re: Healthy Living Campus
June 6, 2021
Page Two

1. Introduction.

A. Purpose of the EIR Process and the Role of Public Comment.

In a March, 2021 document called the “Environmental Impact Report for the Beach Cities Health District Healthy Living Campus Master Plan” (herein “EIR”), the Beach Cities Health District (herein “BCHD”) claims to propose a massive development plan (the “Project”).

The purpose of the CEQA process is to insure that as a whole: “All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation.” (14 CCR § 15126).

In that regard, public participation is “...an essential part of the CEQA process”. (14 CCR § 15201). Indeed, in the process “... the public holds a ‘privileged position’...”, which is based “...on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making.” (See generally *Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural, Assoc.* (1986) 42 Cal. 3d 929.)

B. Purpose of These Public Comments.

A fair review of the record and process to date, including the EIR, discloses that BCHD has made every effort to avoid that CEQA required careful, comprehensive, and detailed review of their proposed Project.

RR11-2
(Cont.) This public comment to the EIR, as well as others which will be submitted, are intended to generally require the EIR to be withdrawn as it is factually and legally deficient, and hence fatally flawed. Specifically, the public comments below are meant to reveal certain errors, omissions, or other defects in the legally required discussion of Project and the illegal CEQA process applied by BCHD, including comments directed to the validity and efficacy of the EIR in its entirety; including the anticipatory failure to reply to public comments on this topic.

Nick Meisinger, re: Healthy Living Campus
June 6, 2021
Page Three

2. PUBLIC COMMENTS ON THE EIR'S INVALIDITY, AND THE FAILURE OF WOOD AND BCHD TO COMPLY WITH CEQA, ARE BEING IGNORED. HENCE, THE EIR IS VOID AS THE PROCESS IS ILLEGAL.

In response to a June 3, 2021 public comment, the submitter received a reply e-mail which read in pertinent part: "...Comments pertaining to the technical sufficiency of the Healthy Living Campus Draft Environmental Impact Report will be included in the Final EIR..."

RR11-3 In addition, subsequent comments sent by e-mail to the designated address have been ignored, and no confirmatory response has been received.

These actions and statements show an intent of Wood and BCHD to fail to address the threshold issue that the EIR is void for failure to comply with CEQA, for a number of reasons. Those include, but are not limited to, the fact that BCHD is not the proper Lead Agency; That BCHD has improperly and illegally already approved the Project, which defeats the CEQA process and renders the EIR a nullity; That the stated "purpose" for the Project is false and misleading, and that there is thus no compliance with CEQA and the EIR is invalid.

Any failure to address these failures and illegalities in the Final EIR, which the quoted language from Wood and BCHD infers will occur, renders the entire process in violation of CEQA.

Thus, the EIR is void, need be withdrawn and ignored, and no Project may continue until a valid CEQA process is undertaken by BCHD.

Margallo, Sydney

From: EIR <eir@bchd.org>
Sent: Tuesday, June 15, 2021 1:41 PM
To: Meisinger, Nick
Subject: Fw: Public Comments to EIR re: BCHD "HLC"
Attachments: 2021.06.03.Committed.Final.No.Ltr.pdf; 2021.06.03.Glare.Final.No.Ltr.pdf;
2021.06.03.Land.Use.Final.No.Ltr.pdf; 2021.06.03.Land.Use.Final.q.No.Ltr.Supplement.pdf;
2021.06.04.Committed.Final.No.Ltr.Supplement.1.pdf;
2021.06.04.Committed.Final.x.No.Ltr.Supplement.2.pdf;
2021.06.04.Lead.Agency.Issue.Final.No.Ltr.pdf;
2021.06.04.Pollution.Oil.Well.Final.No.Ltr.pdf;
2021.06.04.Purpose.Necessity.Final.No.Ltr.pdf;
2021.06.05.Secondary.Impacts.Final.No.Ltr.pdf;
2021.06.06.Required.Reply.Final.No.Ltr.pdf; IMG_0066.jpg

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From: Robert Ronne <rrr55@sbcglobal.net>
Sent: Wednesday, June 9, 2021 11:45 AM
To: EIR <eir@bchd.org>
Cc: Robert Ronne <rrr55@sbcglobal.net>
Subject: Public Comments to EIR re: BCHD "HLC"

Mr. Meisinger:

RR12-1 Attached are copies of those eleven (11) PDF documents (and one photo of a newspaper article as an exhibit to a comment) sent to you as public comments relating to the EIR for the BCHD "HLC" project. Each and every comment is meant to be, under CEQA, a part of the record and required to be responded to in the final EIR, unless the EIR is withdrawn, which is required by law. Please confirm receipt. (Note that only one of the comments previously sent was acknowledged by a confirmatory response; and all of them should be as they are each part of my public comments)

Thank you for your attention to the above.

Thanks, Robert Ronne.