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SAMUEL L. CARDOZO

June 2, 2022

**Via Email and U.S. Mail**

Christina Taylor, Community Development Director  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223

**Email:** [ctaylor@beaumontca.gov](mailto:ctaylor@beaumontca.gov)

Carole Kendrick, Planning Manager  
City of Beaumont  
550 E. 6th Street  
Beaumont, CA 92223

**Email:** [ckendrick@beaumontca.gov](mailto:ckendrick@beaumontca.gov)

**Re: Second Request to Extend the Public Review and Comment Period for the Draft Environmental Impact Report for Beaumont Summit Station Project (SCH No. 2021090378)**

Dear Ms. Taylor and Ms. Kendrick:

We are writing on behalf of **Californians Allied for a Responsible Economy** ("CARECA") to respectfully request that the City of Beaumont ("City") extend the public review and comment period for the Draft Environmental Impact Report ("DEIR") prepared for the Beaumont Summit Station Project (SCH No. 2021090378) ("Project"), proposed by Exeter Cherry Valley Land, LLC. We previously requested an extension of time on the public comment period in a letter dated May 13, 2022, to which the City did not directly respond. To date, the City has failed to produce any of the DEIR reference documents requested by CARECA pursuant to the California Environmental Quality Act ("CEQA"), during the DEIR's public comment period, resulting in violations of CEQA's procedural requirements and CARECA's rights to access the documents relied upon by the City in its environmental review. The City

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\* Letter from Tara Benoit, Adams Broadwell Joseph & Cardozo, to Christina Taylor, City of Beaumont (May 13, 2022). Attached hereto as Exhibit A.



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has also failed to provide access to records sought pursuant to the Public Records Act ("PRA").

The current public comment period on the DEIR ends on Monday, June 6, 2022, which is about one business day from the date of this letter. We request an extension of the public comment period for at least 45 days, the minimum public review period set out in the CEQA, due to the City's failure to make all documents referenced in the DEIR available to the public for the duration of the public comment period.

This request is made pursuant to Public Resources Code section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), which require that "all documents referenced," relied upon, and "incorporated by reference," in a draft environmental impact report be "available for public review" during the entire comment period, and "*readily accessible to the public during the lead agency's normal working hours.*"<sup>2</sup>

On April 29, 2022, we submitted a letter to the City, pursuant to CEQA section 21092(b)(1) and CEQA Guidelines section 15087(c)(5), requesting "*immediate access to any and all documents referenced, incorporated by reference, and relied upon*" in the DEIR (emphasis added). The City did not respond to this request. On May 11, 2022, we emailed the City, again expressing the need for the City to provide access to all documents referenced in the DEIR in response to our request. We submitted the first letter to request an extension of time on the public comment period on May 18, 2022. The letter identified several DEIR reference documents that were not attached to the DEIR or available online. The City responded on May 23, 2022, that the DEIR documents and other project documents are available either online or in-person.<sup>3</sup> On May 26, we responded via email to request access to the following documents referenced in the DEIR:

- Project's Development Agreement
- Preliminary WAIRE calculations referenced at page 25 in Appendix A
- Original native files for AERMOD

<sup>2</sup> Public Resources Code § 21092(b)(1); 14 C.C.R. § 15087(c)(5); *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Beaumont* (2007) 40 Cal.4th 412, 442, *as modified* (Apr. 18, 2007).

<sup>3</sup> Email from Christina Taylor, City of Beaumont, to Tara Rengifo, Adams Broadwell Joseph & Cardona (May 23, 2022). Attached hereto as Exhibit B.

(CEQA) (b)(5)

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- Phase II Environmental Site Assessment, Sunny-Cal Egg & Poultry, 37251 Cherry Valley Boulevard, Cherry Valley, California, prepared for Allen Matkins Lock Gamble Mallory & Natsis LLP by GeoKinetics on May 31, 2013.<sup>1</sup>

The City did not respond to our May 26 request. To date, the City has failed to provide CARECA, and potentially other members of the public, with access to all documents referenced and relied upon in the DEIR, as required by law.

We have identified several documents referenced in the DEIR and its appendices that remain missing, many weeks after we requested access to them. CARECA therefore lacks access to critical supporting documents to the DEIR which it has a right to review during the CEQA public comment period. The missing documents are critical to understanding and commenting on the DEIR's analysis of the Project's impacts to several critical resource areas.

The missing documents include, but are not limited to, the following:

- Project's Development Agreement
- Beaumont Summit Station Specific Plan
- Preliminary WAIRE calculations referenced at page 28 in Appendix A
- Original native files for AERMOD
- Phase II Environmental Site Assessment, Sunny-Cal Egg & Poultry, 37251 Cherry Valley Boulevard, Cherry Valley, California, prepared for Allen Matkins Lock Gamble Mallory & Natsis LLP by GeoKinetics on May 31, 2013.

Without access to these critical DEIR reference documents during the public comment period on the DEIR, CARECA and other members of the public are precluded from having the meaningful opportunity to comment on the DEIR that is required by CEQA. CARECA and other members of the public are also unable to evaluate the accuracy of the City's analyses, or the efficacy of the City's proposed mitigation measures. Additionally, the size of the DEIR and the Project's complexity make it difficult to effectively comment without the referenced documents by the current comment deadline of June 6, 2022.

<sup>1</sup> Email from Tara Rengifo, Adams Broudwell Joseph & Carrizo, to Christina Taylor, City of Beaumont (May 20, 2022). Attached herein as Exhibit C.  
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Courts have held that the failure to provide even a few pages of CEQA documents for a portion of the review period invalidates the entire process, and that such a failure must be remedied by permitting additional public comment.<sup>5</sup> It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.<sup>6</sup> By failing to make all documents referenced and incorporated by reference in the DEIR “readily available” during the current comment period, the City is violating the clear procedural mandates of CEQA, to the detriment of CARECA and other members of the public who wish to meaningfully review and comment on the DEIR.

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In addition to our request for the DEIR reference documents pursuant to CEQA, we also submitted a PRA request pursuant to Government Code §§ 6250, et seq., dated April 29, 2022, for immediate access to any and all public records referring or related to the Project. The request included, but was not limited to, any and all materials, applications, correspondence, resolutions, memos, notes, analyses, electronic mail messages, files, maps, charts, and/or any other documents related to the Project. The City has not responded to our PRA request either, as mandated by the PRA.<sup>7</sup> For this reason, we ask that the City produce all responsive records as soon as possible.

Accordingly, we request that:

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- 1) the City immediately provide us with access to the documents requested in our DEIR reference document request dated April 29, 2022, including but not limited to, the documents enumerated by this letter.
- 2) the City extend the public review and comment period on the DEIR for at least 45 days from the date on which the City releases these documents for public review. If the missing documents are provided by tomorrow, we request an extension to Monday, July 18, 2022.
- 3) the City immediately provide us with access to the documents requested in our PRA request dated April 29, 2022.

<sup>5</sup> *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.

<sup>6</sup> *Santiago County Water District v. County of Orange* (1991) 118 Cal.App.3d 818, 831 (“Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.”).

<sup>7</sup> Gov’t Code § 6253(c).

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Given the short time before the current comment deadline, please contact me as soon as possible with your response to this request, but **no later than Friday, June 3, 2022.**

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Please feel free to email me at [TRengifo@adamsbroadwell.com](mailto:TRengifo@adamsbroadwell.com) with any questions. Thank you for your prompt attention and response.

Sincerely,  
*Tara C. Rengifo*  
Tara C. Rengifo  
Associate Attorney

Attachments

TCR:acp