

Marin Sanitary Service - Submission Related to 12/7/20 Council Meeting, Agenda Item 7.b

Adam W. Hofmann <[REDACTED]>

Fri 12/4/2020 7:49 PM

To: Lindsay Lara [REDACTED]

Cc: Patty Garbarino [REDACTED]

 1 attachments (97 KB)

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Dear Ms. Lara:

I hope you are well. I represent Marin Sanitary Service, and I write on its behalf regarding the San Rafael City Council's December 7 public meeting.

I understand that, pursuant to Agenda Item 7.b, the Council will receive a report by the Transportation Authority of Marin ("TAM") regarding the 101/580 connector project. In connection with that item, I submit a copy of a letter I wrote to TAM's Executive Director, Anne Richman, and ask that this be included in the packet of materials provided to the Council and the public related to that report.

In addition, I would like to reserve the opportunity to provide public comment on behalf of Marin Sanitary during the related agenda item. I understand that you will provide instructions for making public comment during the remote meeting, but I would appreciate any advance recommendations on that front you are able to provide.

Thank you and best regards,
-Adam

Adam W. Hofmann

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November 25, 2020

Anne Richman
Executive Director
Transportation Authority of Marin
900 Fifth St., Suite 100
San Rafael, CA 94901

Re: US 101 / I-580 Connector Project

Dear Ms. Richman:

I write on behalf of Marin Sanitary Service (“MSS”) regarding what I understand to be ongoing development of plans for a new, direct connector between northbound U.S. Highway 101 and eastbound Interstate Highway 580, in San Rafael. This follows a related letter from Terrel Mason to you, dated October 5, 2020, your November 12 response, and prior meetings and correspondence between representatives of MSS and Transportation Authority of Marin (“TAM”) regarding this project.

As you know, TAM consultants have been evaluating seven potential arrangements for the project, two of which—Alternatives 1A and 1B—would run through MSS’s waste-management and processing facility. As you also know, MSS has raised grave concerns regarding Alternatives 1A and 1B. Those project designs are expected to be orders of magnitude more expensive to construct and would substantially disrupt MSS’s existing operations in ways that, given the nature of the service they provide to Marin County businesses and residents and existing land-use permits, cannot be performed in other locations anywhere in the County. Moreover, if implemented, Alternatives 1A and 1B appear likely to eliminate MSS’s ability to construct and begin operating a bio-mass conversion facility, which the City of San Rafael has already permitted as part of MSS’s Master-Use Permit. That facility would help process wood waste from the urban-forest border in a way that helps implement state policies and the County’s Measure C, while providing a carbon-*negative* source of electricity for Marin County.

MSS representatives attempted to convey this information to TAM through prior meetings and correspondence, but it appeared that TAM’s consultants and project designers had a fundamental misunderstanding of the nature of MSS’s existing and planned operations. This led MSS to invite representatives from TAM, its project consultants, the California Department of Transportation (“Caltrans”), and San Rafael City officials, to a site tour on October 30. During the tour, and the brief meetings before and after the tour, attendees had the opportunity to observe in real time the complex and interdependent operations that occur throughout MSS’s facility. MSS also provided details regarding the design and location of its city-permitted bio-mass facility, along with an explanation of the myriad benefits that facility is expected to provide Marin County. Attendees were able to ask questions of MSS managers, engineers, and

consultants, and they were able to observe how Alternatives 1A and 1B would interfere with existing operations and prevent construction of the bio-mass facility.

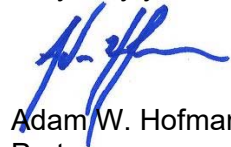
From the feedback MSS received during and after the tour, it appears to have been an extremely helpful exercise. As MSS's founder, co-owner, and Board Chair Joe Garbarino expressed at the end of that meeting, we hope that TAM, Caltrans, and the consultants evaluating options for the project can see how infeasible Alternatives 1A and 1B are. And we hope they now understand, in ways that may not have been apparent when looking at the facility only on paper, how impossible it would be for MSS to maintain its service to Marin County with a freeway running through its facility.

As Mr. Garbarino also expressed, however, MSS will continue to resist further efforts to develop or evaluate Alternatives 1A and 1B. And that is the reason for my letter. MSS acknowledges the sentiment expressed in your November 12 letter that TAM is merely exploring options at this time. However, TAM's consultants have in prior meetings demonstrated a preference for Alternatives 1A and 1B, despite the fact that those designs are considerably more expensive to construct, will disrupt MSS's business in ways that cannot be addressed through relocation, and will prevent the development of a combined clean-energy source and local means to dispose of flammable bio waste generated by efforts to prevent wildfires. Further development of these infeasible designs—and the cost that attends their development—is clearly not in the interest of Marin County.

Moreover, the implication that TAM will at some point in the future condemn rights across MSS's property to build Alternative 1A or 1B represents a potential impediment to needed infrastructure development on the property, including development of the bio-mass facility. So long as that potential impediment remains, TAM risks interfering with MSS's property rights in a way that would itself become a compensable taking under California law, requiring TAM to pay MSS damages before it even decides whether to pursue condemnation. And, as may be obvious, condemning large parts of MSS's business operations—if TAM is even permitted to do so, given the cheaper and less-disruptive alternatives available—will be prohibitively expensive. No one's interests could be served by such extraordinary disruption and expense.

As a result, I write on MSS's behalf to request that TAM formally withdraw further consideration of Alternatives 1A and 1B. MSS and I will make ourselves available if you have further questions, need additional information, or would like to discuss. However, we request that TAM withdraw Alternatives 1A and 1B no later than December 31, 2020.

Very truly yours,



Adam W. Hofmann
Partner

cc: Patty Garbarino, Marin Sanitary Service
Dan Cherrier, Transportation Authority of Marin
Connie Fremier, Fremier Enterprises, Inc.
Chadi Chazbek, Kimley-Horn & Assoc.