



San Francisco Bay Chapter

Serving Alameda, Contra Costa, Marin and San Francisco Counties

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July 29, 2019

Lina Velasco
Director of Planning and Building Services
450 Civic Center Plaza
Box 4046
Richmond, CA 94804

Email: lina_velasco@ca.richmond.ca.us

Re: Notice of Preparation of SEIR for Point Molate

Dear Ms. Velasco:

The Sierra Club makes the following comments regarding the NOP for the SEIR for Point Molate.

First, the actions taken by the City of Richmond are ultra vires and legally null and void because it illegally entered into a purported settlement with the Casino Developer (Upstream) and Indian Tribe in violation of California's Open Meeting Act and failed to cure that violation despite a written demand to do so. This entire process is legally null and void and a sham.

Second, the SEIR cannot legally rely on the purported FEIR for the prior project. That project was never approved and any certification of that purported FEIR was, therefore, legally without any legal force or effect. An agency cannot certify an EIR for a project that was never approved. Moreover, that purported FEIR identified many Significant Unavoidable and Unmitigable adverse environmental impacts for which there was no Statement of Overriding Considerations that the certifying agency adopted to justify certification of that purported FEIR. As a consequence, the purported FEIR is a null and void document that has no legally relevancy to the current proposal.



Third, the allegedly proposed project for Point Molate contains an alternative that the City Council as the lead agency never approved. This is the purported project for 2280 residential units. (See Page 6, Footnote 1.) Sierra Club is not aware of any action taken by the Richmond City Council to approve as an alternative 2280 residential units. Consequently, the city is evaluating a project alternative that is not legally valid.

Fourth, the purported SEIR should evaluate the Community Plan proposed by the Point Molate Alliance, Citizens for Eastshore Parks (CESP), Sierra Club, and the Sustainability, Parks, Recycling and Wildlife Legal Defense Fund (SPRAWLDEF). The Point Molate Alliance is made up of Richmond residents and also CESP, Sierra Club, and SPRAWLDEF. This is a legitimate and valid alternative that should be analyzed in the EIR that will be required for Point Molate in order to comply with the California Environmental Quality Act that mandates review and analysis of a range of reasonable alternatives to the any proposed project area.

Fifth, the EIR for any project cannot rely upon any traffic analysis in legally invalid FEIR for the Casino project because that invalid FEIR relied upon invalid and legally insufficient methods for analyzing traffic impacts, carbon emissions, and impacts that the project would have on climate change and global warming.

Sixth, the EIR must fully and completely analyze the impacts that all alternatives would have on carbon emissions and global warming and identify specific project specific measure to mitigate any such emissions in order to reduce global warming.

Seventh, The Bay Plan that ABAG and MTC have adopted calls for five Preferred Development Areas (PDAs) in Richmond for further residential development around existing transit nodes and centers. Point Molate is not one of those PDAs. Therefore, the EIR must address how the proposed alternatives will comply with the Bay Plan and why housing is proposed for an area of Richmond that is not in any one of the five PDA's and which will generate more traffic, more carbon emissions, and therefore increase Richmond's contribution to global warming when development in the five PDAs would not.

Eighth, offshore of Point Molate is one of, if not, the richest and most important eelgrass beds in the Western United States. The EIR must analyze the impacts of any development alternative on those beds. Sierra Club notes that the prior purported FEIR failed to address this issue so it cannot be relied upon in order to assess any impacts.



Ninth, Alexander Quinn of Hatch prepared an economic analysis which shows the Richmond will actually have to subsidize various alternatives calling for housing at Point Molate with either a tax increase on all residents or a drastic reduction city services because the city will have to pay around \$3.5 Million to subsidize the costs of the proposed project of around 1200 residential units. The purported SEIR must address the Hatch analysis.

Tenth, the EIR must analyze whether proposed residential development is economically feasible. The Quinn Analysis shows that the residential units in the proposed 1200 or so residential development for Point Molate will require purchasers to have an income of at least \$200,000. Just how feasible will it be to attract such purchasers to housing units at Point Molate?

Eleventh, the EIR must address the fire and toxic impacts to the residential units and residents from a fire or release of toxics from the Richmond refinery. So far as Sierra Club can determine, the two lane road into and out of Point Molate is the equivalent of the two lane road at Paradise, California and that allowed residential development at Point Molate under these circumstances would be environmentally inadequate or morally improper.

Twelfth, the EIR must analyze the feasibility of low income and affordable housing units at the Point Molate site since there is no infrastructure for that housing at the site and sites within the five PDAs are more appropriate and better suited for providing low income and affordable housing.

Finally, the Sierra Club joints in the comments from the Point Molate Alliance, CESP, and SPRAWLDEF.

Sincerely yours,

A handwritten signature in black ink that reads "Norman La Force". The signature is written in a cursive, flowing style.

Norman La Force,
Chair, Sierra Club San Francisco Bay Chapter
Legal Committee