

Law Offices
of
DOUGLAS W. OTTO

Landmark Square
111 W. Ocean Blvd., Suite 1300
P.O. Box 2210
Long Beach, California 90801-2210
(562) 491-1191
FAX (562) 590-7909

24501 Jeremiah Drive
Dana Point, California 92629
(714) 547-1246

Please Reply To:
☒ Long Beach
☐ Dana Point

March 21, 2005

SENT VIA FACSIMILE TO (562) 570-6538

Mayor Beverly O'Neill
City of Long Beach
333 W. Ocean Blvd.
Long Beach, CA 90802

SENT VIA FACSIMILE TO (562) 570-6954

Councilwoman Tonya Reyes-Uranga
Council District 7
City of Long Beach
333 W. Ocean Blvd.
Long Beach, CA 90802

**Re: Request to Re-Order the Agenda of the Long Beach City Council
to Reschedule Agenda Item No. 1 – The Appeal of the City Planning
Commission's Approval of A Conditional Use Permit and Certification
of A Negative Mitigation Declaration for An Asphalt and Concrete
Recycling Operation Located at 1630-1660 E. 32nd Street
Case No. 0405-26 (District 7)**

Dear Mayor O'Neill and Councilwoman Reyes-Uranga:

This letter is a formal follow-up to my oral request left with your office last Friday to postpone the public hearing on Agenda Item No. 1 concerning the appeal of Hanson Aggregates' application for a conditional use permit and certification of environmental documents for approximately two hours until 7:00 PM on Tuesday, March 22nd. My grounds for requesting this brief delay are as follows:

1. As you know, I represent District 4 of the Long Beach Community College District which is comprised of approximately 100,000 Long Beach, Catalina Island, and Signal Hill residents. On Tuesday, March 22nd, at 5:00 PM there is a Board of Trustees meeting for the Community College District at Cabrillo High School in West Long Beach. The Board of Trustees meeting presents a

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conflict with my representation of the Appellants at the public hearing for Agenda Item No. 1, also set for 5:00 PM before the Long Beach City Council.

2. I have discussed my request to re-order the public hearing on Agenda Item No. 1 until approximately 7:00 PM with my clients and witnesses who we anticipate will be testifying at the public hearing. Each and every one has agreed that commencing the public hearing at 7:00 PM would not be an inconvenience or a burden. While I cannot speak for all potential witnesses, given the number of witnesses for the Applicant at the Planning Commission meeting, I do not think that re-ordering the agenda, as requested, will result in much of an inconvenience to anyone.

As a fellow elected official, I am sure you can appreciate my dilemma. I would appreciate hearing back from you as soon as possible.

Very truly yours,



Douglas W. Otto

DWO:map

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(562) 491-1191
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Please Reply To:

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March 22, 2005

Michael Mais, Assistant City Attorney
Members of the City Council
City of Long Beach
333 W. Ocean Blvd.
Long Beach, CA 90802

**Re: Appellants' Request to Receive Supporting Documentation
into the Record, Conclude the Public Hearing, Grant Their
Appeal, and Overrule the Decision of the Long Beach
Planning Commission to Approve the Conditional Use Permit,
Certify the Negative Declaration, and Modify Mitigation Measure
No. 1 to Allow an Asphalt and Concrete Recycling Operation
Located at 1630-1660 E. 32nd Street
Case No. 0405-26 (District 7)**

Dear Mr. Mais and Members of the City Council:

I represent Appellants Fred Reidman of Merlin Properties, LLC, Rob Bellevue of Granite Group of California, Inc., and Bob Cree in their opposition to the Long Beach Planning Commission's certification of the Mitigated Negative Declaration and granting of a Conditional Use Permit to allow an asphalt and concrete recycling operation located at 1630-1660 E. 32nd Street in Long Beach on behalf of Applicant Hanson Aggregates. Messrs. Reidman, Bellevue, and Cree timely filed their appeals subsequent to the actions of the Long Beach Planning Commission on January 20, 2005. That appeal is to be heard on Tuesday, March 22, 2005, at a public hearing before the Long Beach City Council as Agenda Item No. 1.

In essence, the Appellants argue that, under California law, an Environmental Impact Report [hereinafter "EIR"], and not a Mitigated Negative Declaration [hereinafter "MND"], should have been prepared as the appropriate environmental document for this project. Also, regardless of the adequacy or appropriateness of the environmental document, the findings

required for the City of Long Beach to issue a Conditional Use Permit cannot be made because the proposed project is inconsistent with the City's General Plan and will be detrimental to the surrounding community, including public health, safety, general welfare, environmental quality, and quality of life.

This letter proceeds by first describing the proposed project, then citing the legal standards under the California Environmental Quality Act [hereinafter "CEQA"] for the non-preparation of an EIR, then notes a variety of procedural and substantive defects in the pending application, both in its environmental review and in its Conditional Use Permit analysis. Finally, substantive evidence is presented in support of the preceding analysis and argument.

I. THE PROPOSED PROJECT

Hanson Aggregates proposes to establish a recycling center for concrete and asphalt, where demolition materials would be collected, stockpiled, and crushed. The project site is on the south side of 32nd Street, between Walnut Avenue and Cherry Avenue. The area is zoned General Industrial. [Long Beach Planning Commission, January 20, 2005, Staff Report (hereinafter "Staff Report"), page 2.] Although the same Staff Report reports that the project is surrounded by other industrial uses, the proposed use would be the most intense in the area. Just north and west of the proposed project is a new light industrial park; directly west of the project is another property devoted to light industrial uses; immediately south and across the I-405 Freeway are commercial buildings; and a Friedman Appliance Retail Store is under construction directly west of those properties. Several automobile dealerships are on Spring Street, less than a quarter-mile south of the project site and less than one-half mile from where properties were recently redeveloped by the City of Long Beach in conjunction with improvements at the airport, including a restaurant and modern hangar facilities.

According to the same January 20, 2005 Staff Report, the project site is approximately 650 feet from the California Heights Historic District and is approximately 750 feet from John Burroughs Elementary School in Signal Hill. The Burroughs School is not only home to approximately 400 K-5th graders, but serves as a training site for teachers for the entire Long Beach Unified School District on a regular basis.

The Staff Report states that, "The proposed use, although under different ownership, has been basically onsite since 1915, when Blue Diamond operated at this site." [Staff Report,

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p.4.] The Staff Report continues to say that Sully Miller, a sublessor from Hanson, "allowed their business license to expire and lost their legal non-conforming right to operate the asphalt batch plant at this location without having a Conditional Use Permit." [Staff Report, p.2.] Therefore, a Conditional Use Permit is required for this operation.

While technically correct, this statement is misleading. The asphalt batch plant, operated by a company called Eco-Pave before being operated by Sully Miller, went through an elaborate environmental review more than a decade ago. In late 1994, Eco-Pave received a standards variance to replace a legal, non-conforming asphalt plant in the then-ML Zone with a modern asphalt plant, and to replace two 45' storage silos with two 75' storage silos. In order to obtain these environmental entitlements, Eco-Pave was required to prepare an EIR. Contrary to representations made by Hanson Aggregates, the operation of a concrete and asphalt crushing facility, which would be conducted entirely outdoors, proposes significant and different environmental hazards than the asphalt plant run by Eco-Pave, and subsequently, Sully Miller.

II.

THE LEGAL STANDARD FOR REQUIRING AN ENVIRONMENTAL IMPACT REPORT

CEQA requires an EIR whenever a project may have a significant adverse impact on the environment. Public Resources Code section 21151 provides: "If there is substantial evidence of a significant environmental impact, evidence to the contrary does not dispense with the need for an EIR when it can still be 'fairly argued' that the project may have a significant impact." Friends of "B" Street v. City of Haywood, (1980) 106 Cal.App.3d 988, 1001. "Section 21151 creates a low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted." League of Protection of Oakland's Architectural and Historic Resources v. City of Oakland (1997) 52 Cal. App.4th 896, 905. According to the Public Resources Code:

"Negative declaration" means a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an Environmental Impact Report. [Public Resources Code section 21064, emphasis added.]

A determination that a proposed project will have no significant effect can only be made if "there is no substantial evidence in light of the whole record before the agency that such an impact may occur." [Public Resources Code section 21080(c)(1), emphasis added; see also, CEQA Guidelines, section 15070(a).]

III. PROCEDURAL PROBLEMS WITH THE MITIGATED NEGATIVE DECLARATION

As an initial matter, the fact that a number of conditions were added to the Conditions of Approval after the Mitigated Negative Declaration [hereinafter "MND"] was released for public review violates CEQA's requirement that conditions be imposed on a project before the MND is released for public review.

"'Mitigated Negative Declaration' means a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) provisions in the project plans or proposal made by, or agreed to by, the Applicant before the proposed Negative Declaration and initial study are released for public view would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur. . . ." [Public Resources Code section 21064.5.]

The fact that 18 conditions were added to the 37 conditions set forth in the December 16, 2004 version of the Conditions of Approval show that, in a number of areas, the MND released for public review failed to set forth sufficient mitigation measures.

Indeed, a careful review of the history of the environmental review for this application reveals that the public comment period for the proposed MND only closed on December 15, 2004, the day before the scheduled Planning Commission hearing. At that time, only 37 Conditions of Approval were proposed. After the comment period was over and the Planning Commission hearing was gratuitously rescheduled to January 20, 2005, planning staff added 18 Conditions of Approval to the proposed Conditional Use Permit. Many of those substantive conditions should, in fact, be part of a mitigation monitoring program in conjunction with the MND, not Conditions of Approval for the Conditional Use Permit, which

are typically less rigorous than mitigation measures in conjunction with an environmental document.

IV.
SUBSTANTIVE ISSUES WITH
HANSON'S ENVIRONMENTAL REVIEW

The following specific areas either were not addressed or failed to be addressed adequately in the MND:

A. **Storm Water Run-Off Impacts Must Be Analyzed.** The MND states that the project's impervious grand area is less than 100,000 square feet. [MND, p.26.] However, the site is 4.3 acres and, therefore, is well over 100,000 square feet. Whatever the accurate size of the property, the MND says that the project will adhere to National Pollution Discharge Elimination Systems [hereinafter "NPDES"] best practices. [MND, p.26, Condition No. 32.] The future submission of Best Management Practices [hereinafter "BMP"] plans may be inadequate because it is a deferred analysis. Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296. In Sundstrom, the court set aside a Conditional Use Permit for a sewage treatment plant because the county that approved it did not resolve uncertainties regarding the project's potential environmental impacts. One measure required the preparation of a hydrological study to study soil stability, erosion, sediment transport, and flooding of downslope properties. However, this measure improperly deferred environmental assessment until after the project was approved, violating CEQA's policy that impact must be identified before project momentum reduces or eliminates an agency's flexibility to change its course of action. Id. at 306-308.

Since Hanson proposed the extensive use of water to control air quality, it is reasonable to assume that fine particles and dust are going to run off the site and into the storm drain system and potentially clog that system. Although the MND provides expert analysis of air quality, noise, and traffic issues, there is no similar analysis of storm water run-off issues. The January 20, 2005 Conditions of Approval require a "drainage and particulate containment plan" [Condition No. 38]; however, even such measures may violate Sundstrom so long as objections to the failure to provide BMP plans are raised.

B. **If This Project Involved the Transfer of Hazardous Material, It Would Be Prohibited From the Site by Section 21.52.410 of the City's Municipal Code.** Certainly, hazardous materials will arrive at the project site and then be sent away. The MND states that

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the truckloads of concrete and other materials that come to site to be unloaded, stored, processed, and removed will be "visually inspected" for hazardous materials. Obviously, if hazardous materials are discovered upon arrival, they will be sent away. However, as expert testimony at the hearing will reveal, it is impossible to make determinations of the presence of hazardous materials by visual inspection alone. Concrete, asphalt, and other materials often are embedded with hazardous materials, such as asbestos and silica. Silica, although not identified on a list of hazardous materials, is particularly dangerous. Silica particles are so fine that they can easily become airborne and lodged in the lungs of individuals. Silicosis is akin to asbestos or "black lung" disease and is a significant health hazard.

Section 21.52.410 of the Municipal Code states, among other things, that a business involved in hazardous waste treatment, hazardous waste disposal, or hazardous waste transfer should not be located within 2,000 feet of "any residential zone or use, . . . or any school. . . ." The permit claims that the proposed facility will only accept non-hazardous demolition materials and that trucks are "visually inspected to prevent non-acceptable materials from entering the facility." [Staff Report, p.6.] Certainly, the testimony which will be provided at the hearing undermines the confidence that no hazardous materials will be treated, disposed of, or transferred at the site.

C. **Air Quality Impacts May Be Significant.**

1. **The Air Quality Analysis Is Inadequate by Failing to Fully Analyze Potential Concentrations of Particulates and Because It Identifies the Crushing of Concrete as "No Different" Than the Processing of Asphalt Products.** The air quality assessment performed by LSA Associates evaluates emissions from the project, but finds that they are less than the SCQMD thresholds. [Air Quality Analysis (hereinafter "AQA"), p.16.] The study does not appear to analyze potential concentrations of particulates. The standards for pollution concentrations, including particulates, are given on AQA, p.14. However, no comparison of the project to the particulate standards is made. The AQA goes on to state that, "processing of RAP [Recycled Asphalt Products] is no different than the processing of concrete and asphalt products and, where RAP is used for road base, the use is identical." However, testimony provided will show that the crushing of concrete is substantially different than recycling asphalt. Indeed, in the letter of Hanson's counsel, Lindell Marsh, dated March 17, 2005, to Scott Mangum, Community Planner for the City of Long Beach, Mr. Marsh states that: "... Hanson has no intention of operating an asphalt plant on the site . . ." Clearly, this undermines the validity of the environmental analysis supplied on this subject.

The LSA Associates AQA under-estimated particulate emissions from the crushing operations. The AQA incorrectly assumed that concrete crushing is identical to asphalt crushing. However, concrete crushing produces approximately 20 times the fugitive dust emissions that occur during asphalt crushing. Concrete crushing produces much higher levels of fine particulate matter (PM-10/PM-2.5) than asphalt crushing.

Also, concrete contains high levels of silica that will be emitted as particulate emissions. Fine particles of silica (PM-10/PM-2.5) are a significant chronic non-cancer health risk because they lodge deeply in the lungs where natural defenses cannot remove them. Silica is inert and the body's immune system tries to neutralize silica particles through a build-up of non-elastic "scar tissue" that decreases lung function. Epidemiological studies show that elevated levels of fine particles of silica produce increased hospital admissions, increased respiratory symptoms and diseases (such as asthma and decreased lung function) especially in children, alterations in lung tissue, structure, and respiratory tract defense mechanisms, as previously described, and premature death of individuals subject to chronic exposure to fine particles of silica.

In contrast to asphalt, concrete contains high concentrations of silica and crushing concrete generates a significantly higher concentration of fine particulates than asphalt crushing operations. Air Dispersion Modeling is required to assess the health risks resulting from the project to sensitive receptors for silica.

2. **The Air Quality Analysis Fails to Analyze Diesel Exhaust As A Toxic Air Contaminant.** Particulates within diesel exhaust are classified as Toxic Air Contaminants [hereinafter "TAC"]. TACs require additional analysis if sensitive receptors, such as residential land uses and schools, are within one-quarter mile of the proposed project. [CEQA Air Quality Handbook, 1993.] Air Dispersion Modeling of the project site and truck routes between the freeway and the project site are required to predict associated levels of excess cancer rates. Chronic non-cancer health risks associated with diesel exhaust must also be evaluated.

Further, the truck trip generation rate and off-highway diesel fuel mobile equipment use for the project is significant enough to warrant a health risk assessment for diesel exhaust. A total of 80 heavy-duty diesel truck trips and 9 delivery truck trips per day is generated by the proposed project. Wheeled loaders, water trucks, and rock crushers also produce diesel exhaust. Also, the air study in support of the MND claims that the associated emissions from this project are transferred to this new location and are not new sources. This statement does

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not take into account moving air pollutant sources closer to sensitive receptors, such as residential land uses and the Burroughs Elementary School.

It is reasonable to conclude that the Air Dispersion Modeling used in the U.S. EPA ISC-3 Model to predict the concentration of diesel exhaust resulting from the project is required. The predicted concentration needs to be analyzed for excess cancer risks and chronic non-cancer risks associated with elevated levels of diesel exhaust at sensitive receptors within one-quarter mile of the proposed project.

D. Noise Impacts Could Be More Significant Than Reported. A noise analysis also conducted by LSA Associates concluded that there would be no significant noise impacts from the project, despite the proximity of residential and school receptors. The MND states that staff evaluated a similar operation at various distances and found that there would be no significant impact. However, expert testimony on the subject of noise will show that noise issues may, indeed, exist. The testimony will show that the attenuation used in the analysis is suspect because it fails to take into consideration the height from which the noise will be coming from the crushers used in the operation of the facility. Also, the quality of the noise is different. In contrast to statements in the report that the levels of noise from the freeway adjacent to the Burroughs Elementary School site are higher than expected after attenuation from the project site, itself, the noise from the site will be stronger (in the area of 90 decibels) and episodic and, therefore, not lending itself to the melding effect to which traffic noise is somewhat susceptible.

V.
THE APPROVAL OF THE
CONDITIONAL USE PERMIT SHOULD ALSO
BE OVERTURNED BECAUSE THE PROPOSED PROJECT
IS NOT CONSISTENT WITH THE GENERAL PLAN, NOR
CAN THE REQUIRED CONDITIONAL USE PERMIT FINDINGS BE MADE

The Appellants believe that the action of the Planning Commission to certify Mitigated Negative Declaration 21-04 and approve Conditional Use Permit 0405-26 was incorrect and should be reversed by the City Council.

As the evidence will show, Hanson Aggregates' operations in California does experience problems related to truck traffic, noise, and dust. These problems included: 1)

material dropping from trucks and causing property damage (broken windshields and auto body damage), 2) trucks parking in surrounding neighborhoods before and after business hours, 3) noise and dust generated by bulk breaking operations (preliminary breaking of larger salvaged rubble into pieces appropriately sized for the rock crusher), 4) noise and dust created by accessory equipment moving on-site material around the property, and 5) general nuisance problems created by uncontrolled individual contractor trucks coming to the site to drop-off and pick-up product.

A. **The Long Beach Zoning Ordinance and the General Plan Cannot Be Used to Support This Project.** The stated Purpose of the Industrial Chapter of the Long Beach Zoning Ordinance is to establish areas for a broad range of industrial and manufacturing uses. It does so recognizing that such uses provide employment, contribute to the City's tax base, and create products needed by customers and the business community at large. Additionally, it acknowledges that this broad range of uses can only be supported provided that safeguards are in place to address environmental and aesthetic concerns and to protect public health and safety and to ensure that businesses operate within the clearly defined limits of what is allowed. The proposed use provides only a few jobs for a site of greater than 4 acres in size, a site that could provide several hundred jobs. Similarly, no documentation has been presented to the City as to how this use will contribute to the City's tax base, nor how much of the aggregate product will be for consumption by or within the City. Nothing appears in the Planning Department's Staff Report regarding these matters or in the environmental review.

B. **The Required Findings for Issuance of A Conditional Use Permit Cannot Be Made.** The Long Beach Municipal Code requires three specific findings in order to grant a Conditional Use Permit. None of these findings can be made. Each is discussed separately below:

FINDING NO. 1: The approval is consistent with and carries out the General Plan, any applicable specific plans such as the Local Coastal Program, and all zoning regulations of the applicable district.

The General Plan makes the following statement on Industrial Uses: "From the overall policy standpoint, Long Beach does not wish to host plants and processes that present a high risk for environmental damage or serious neighborhood disruptions of any kind. Rather, the City aspires to accommodate high technology research and development and manufacturing uses such as bio-medical research and development, computer, aerospace and airframe development, and similar types of industries. Aspirations aside, the City also intends to accommodate a great variety of businesses, employing a diverse range of industrial processes,

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producing many products, provided such operations are conducted in a manner consistent with all applicable safety and environmental regulations." Further, regarding the General Industry District (LUD 9G), the General Plan states, "... this district is established in order to maintain a strong industrial employment component in the City's economic base. ..."

The use and process proposed here are not consistent with the language and intent of the General Plan. Nothing about this use conforms to the City's aspirations to accommodate high-end, modern-era, job-oriented, and economically supportive uses.

Additionally, the recently prepared Land Use and Mobility Elements Update of the General Plan: Technical Background Report (March 2004) addresses Land Use Conflict Areas and states, "Although the negative visual images often associated with industrial uses are a problem, quality of life impacts from excessive truck traffic, noise and air pollution associated with industry. . . are of paramount concern. . . . Similar conflicts exist in sporadic areas that are adjacent to major local freeways." The project's failure to conform to this concern was discussed previously while addressing the setting of the proposal. Regarding aesthetics, this site sits prominently above the 405 Freeway and is highly visible from that major north/south corridor when approaching from either direction. The presence of 25-foot high stockpiles of salvaged demolition rubble and crushed aggregate is not a very aesthetic land use and clearly inconsistent with the intent of this General Plan concept and the zoning regulations.

Again, while the environmental appropriateness and adequacy of the MND will be addressed by others, from a full-environmental disclosure point of view, the MND identified only two mitigation measures (distance of the crushing activity from Walnut Avenue and a requirement to obtain a Conditional Use Permit), while the original Staff Report incorporated over fifty Conditions of Approval, no less than one-fifth of those a direct result of concerned citizen input on environmental concerns not identified in the MND.

FINDING NO. 2: The proposed use will not be detrimental to the surrounding community including public health, safety or general welfare, environmental quality, or quality of life.

The very nature of the use is detrimental to the surrounding community. The nature of this use is completely counter-productive to the heroic efforts of the City to improve Parcel J at the Airport, improve the land uses along Cherry Avenue, and recreate the image of the Boeing (formerly McDonald Douglas) facilities, not to speak of the efforts put forth by both Long Beach and Signal Hill to improve the land uses along Spring Street. Surely, the

establishment of rubble and aggregate stockpiles of salvaged concrete and asphalt and the ongoing operation of a rock crusher with its associated environmental impacts in the heart of the City cannot be good for the general welfare and quality of life within Long Beach.

FINDING NO. 3: The approval is in compliance with the special conditions or specific conditional uses, as listed in Chapter 21.52.

There are four requirements for Finding No. 3, and each is problematic, as follows:

- (1) *The use and the siting of the use on the property will not adversely affect surrounding property* – The siting of the use (the stockpiles) is highly visible from the northbound and southbound approaches of the 405 Freeway, as well as from all surrounding uses and streets, and creates a negative aesthetic in the area. The operation of the rock crusher will be obvious to all the senses. This operation creates visual blight, noise and air pollution, and vibration. The MND only identified two mitigation measures that do not serve to mitigate adverse impacts. The conditions of approval create an administrative bureaucracy for the City and the surrounding uses.
- (2) *Adequate permitting and site design will ensure compliance with performance standards* – Notwithstanding the numerous conditions of approval imposed by the Planning Commission, concerns regarding the generation of dust and the ability of the SCAQMD enforcement division to respond to complaints in a timely manner still persist. Enforcement of these conditions of approval, annual review of operations, and reliance on numerous outside agencies cannot ensure compliance with performance standards.
- (3) *Truck traffic will not adversely affect surrounding residential neighborhoods* – While access to the freeway is rather direct without traversing neighborhoods, local truck deliveries are not obligated to follow designated truck routes and the nature of the product, aggregate rock, is an attractive nuisance when falling from a moving vehicle.
- (4) *Management of hazardous waste transfer* – While this site is not proposed to handle hazardous materials, demolition rubble is known to be infused with hazardous material. Waiting to identify this material once it arrives onsite is a

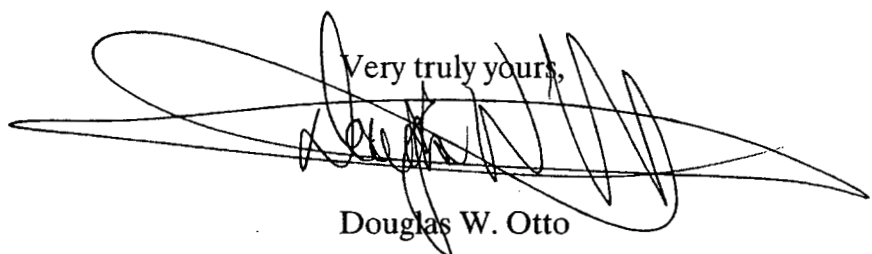
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violation of the City's standards for separation from sensitive land uses and, therefore, is not permitted.

**VI.
CONCLUSION**

The environmental review process has been flawed. An Environmental Impact Report should be required of the applicant before the City Council takes action on the proposed Conditional Use Permit. However, even if the environmental review had been adequate, the required findings necessary to approve the Conditional Use Permit cannot be made. A concrete and asphalt crushing plant in the center of the City is no one's vision of Long Beach in the 21st century.

Very truly yours,



Douglas W. Otto

DWO:map

Cottage Street Beats the Concrete Mountain

The fruit in Linda Marquez's yard is starting to grow back. There are big apples on the tree this year, the first time in four years. And the trees aren't covered with the fine white concrete dust that coated them and almost killed them.

Marquez lives on Cottage Street in Huntington Park. Her neighborhood is the kind of working-class community which

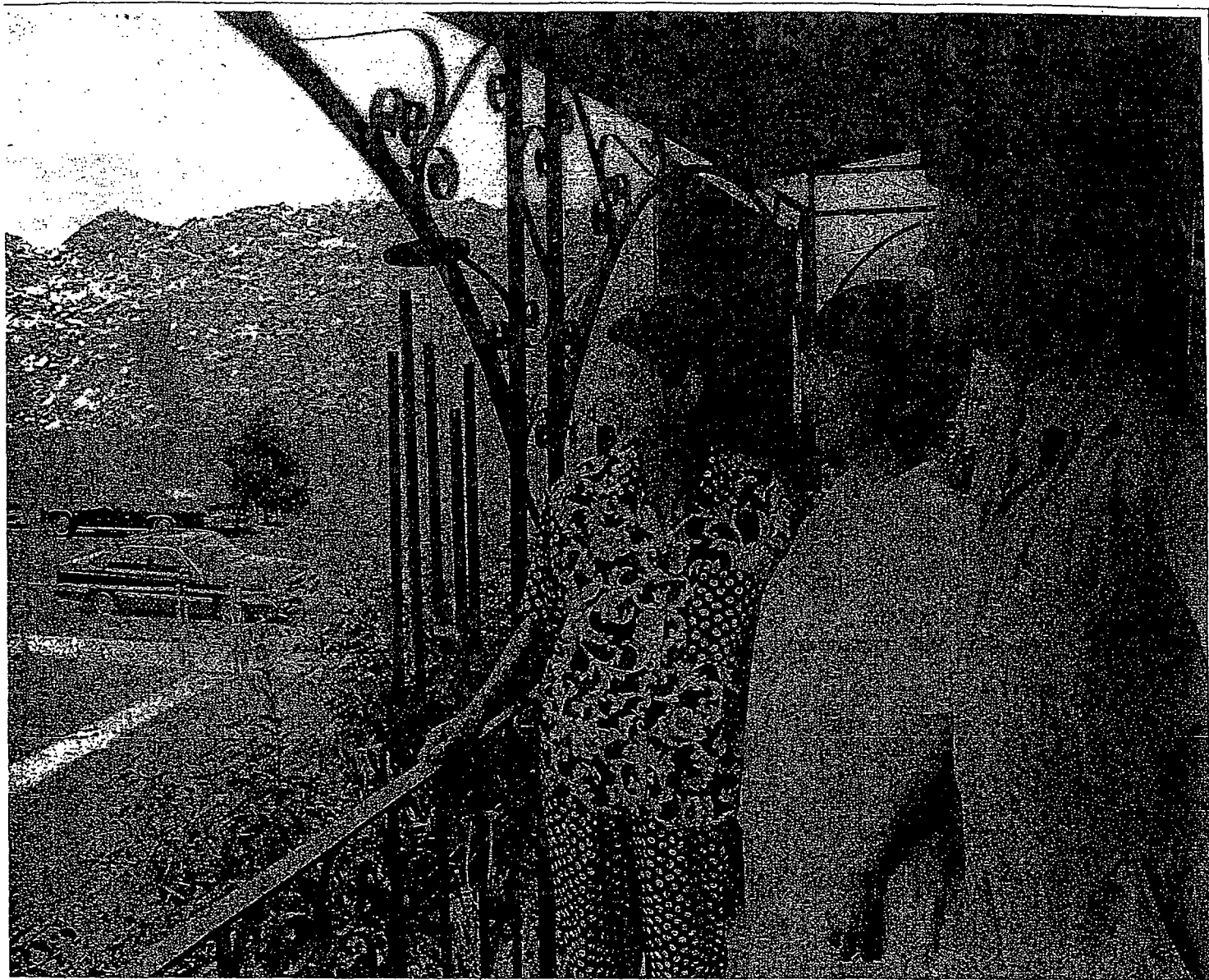
doesn't usually carry much weight in big-money municipal decisions. But after four years of grassroots effort, its mostly Spanish-speaking residents have finally won. Not only did they beat the odds in one of the most publicized environmental struggles in L.A., they also changed their city's politics in the process.

For the first time since neighbors began organizing, "*la montaña*" has stopped growing. The huge dusty mountain of concrete which overshadows Cottage Street's modest homes is even starting to sprout plants. After Hunting-

ton Park's city government filed charges against him, the owner, Sam Chew, was sentenced in criminal court in May 1998 for creating a public nuisance. Lawsuits by CBE continue to fight to remove *la montaña* once and for all.

The mountain has been "a malevolent presence" for Linda Marquez, a neighborhood activist who lives directly across the street. Her family and others describe the taste of grit between their





Linda Marquez, Leilani and Dean Hickman, leaders in the neighborhood struggle against the mountain of concrete. The mountain looms behind them across Cottage Street.

teeth when they first wake up—the concrete dust which makes children cough while they play or study after school. They've worried since 1993 about the long-term health effects of the blanket of microscopic concrete particles which has covered their neighborhood.

That year Chew leased a large lot along Alameda Street, formerly the site of the Dresser Tire Co. He hoped to capitalize on the huge Alameda Corridor project,

which will eventually build a direct, underground rail line from downtown to the harbor. The construction process involves cutting a deep groove 100 feet wide, 32 feet deep, and 21 miles long under Alameda Street. The contract to recycle the enormous quantities of pavement unearthed in the process will be worth millions. Chew's operation, Aggregate Recycling Systems (ARS), would have been miles closer than its

nearest competitors in the desert.

In Huntington Park city hall, a town hit hard by plant closures and lost tax revenues, Chew got a permit easily.

No sooner had he set up operations than the 1994 Northridge earthquake produced an unexpected bonanza. Huge chunks of the broken Santa Monica freeway soon began arriving in dump trucks, and a mountain of concrete suddenly towered over what had been a quiet



The Cottage Street neighbors got together to celebrate their victory over la montaña.

residential neighborhood.

Residents have been trying to stop Chew, and get the mountain removed, ever since. "When I came home from the hospital in May of 1994, the mountain had suddenly appeared," Marquez remembers. "I started knocking on doors, and discovered that my neighbors were

"I discovered that my neighbors were already petitioning and protesting."

already petitioning and protesting."

Marquez and residents of the community just off Alameda Street went to the city planning department, where they were told that the operation had already received a permit, and that nothing could be done. But they didn't take no for an answer. They decided to appeal to the city council, and called councilmember Rick Loya, asking him to come down to

Cottage Street and take a look. Loya not only was disturbed by what he saw, he even got sick from the dust himself. Loya in turn referred the neighbors to Communities for a Better Environment.

Carlos Porras and Alicia Rivera brought the organization's resources to the aid of Cottage Street. Together, CBE and the mountain's unwilling neighbors packed city council meetings and collected signatures on petitions. They demanded that the city make a study of the danger to residents from breathing the tiny particles of concrete.

Some of the dust from la montaña is classified as fine particulate matter, consisting of particles a hundredth of a millimeter or less—about one-seventh the width of a human hair. Called PM10, these particles are especially dangerous because they bypass the mucus and hair in the respiratory tract and embed themselves deep within the lungs. Here they cause damage to tissues.

Particulate matter causes premature

death, can cause respiratory disease, and certainly worsens any existing respiratory condition, including pneumonia, bronchitis and asthma. Particulate matter can also reduce the body's immunity to infections.

Following weeks of protests, and unfavorable media publicity, the city asked the Air Quality Management District to conduct a study. The AQMD did so, but often measured dust concentration in the air during periods of low activity at the site, instead of times of high truck traffic or when the concrete crusher was in operation. The district excluded data in its final report which showed that the operation created hazardous levels of particulate matter. Its investigators took a full year to produce six days worth of data, delaying resolution of the dispute.

CBE and the neighbors challenged the AQMD findings. They contracted for an independent study, performed by Air Quality Dynamics. That study showed that facility operations would approxi-

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mately double existing particulate levels, which already pose a significant danger to community health.

"What made us effective was the combination of the organized strength of the neighbors in the community, and the resources and technical expertise of CBE," says Dean Hickman, who lives on Marbrisa Street, just a couple of blocks from *la montaña*.

"We were very persistent," adds Leilani Hickman, "and we outlasted them. People learned how the system functioned."

Eventually, the neighbors made support for *la montaña* the political kiss of death in Huntington Park.

At first, city staff fought the neighbors, and Huntington Park's planning commission refused to revoke Chew's use permit. On the city council itself, Loya was often a lone defender of Cottage Street, with councilmembers Rosario Marin and Tom Jackson allied against him.

"Political turmoil in southeast LA," Porras says, "has given us some new Latino faces in city governments here, which before were almost exclusively white. But often we've replaced the white defenders of industry with Latino defenders of industry."

Grassroots organizing finally paid off in December of 1996 when the city conducted a hearing to declare ARS a public nuisance, and a hearing officer concluded that the operation should be removed. CBE confronted Chew with its discovery that he had accepted soil contaminated with petroleum waste. Then he further alienated the city by declaring that he would continue to do so.

ARS lawyer Anthony Weber added fuel to the fire with a letter threatening to sue the city, calling Cottage Street neighbors "perhaps... individuals in the country illegally."

That was too much for councilmember Marin. When the fight over *la*

montaña began, she had called Sam Chew her friend. But by the time the council met to consider his appeal, a meeting set for the day before election day, she was on the side of the neighbors. With Loya and Jessica Maes, there were three votes against Chew.

With one council position vacant, that left Mayor Tom Jackson out in the cold, and he abstained. Voting for Chew's mountain had become a political impossibility.

"This is one of the worst toxic environments in the country," Porras says, "and the battle against *la montaña* means a lot. A group of working-class residents with few resources taught the politicians and the bureaucrats to be afraid. If they can do it, so can others."

"We're united," Marquez concludes. "That's what gave us our strength. The city is run by its government, but it's the people who make a difference."

La montaña towers over a house on Cottage Street.





City of Signal Hill

2175 Cherry Avenue • Signal Hill, CA 90755

March 11, 2005

Mr. Greg Carpenter
Zoning Officer
City of Long Beach
333 West Ocean Blvd.
Long Beach, CA 90802

Dear Mr. Carpenter:

Subject: Hansen Aggregates Project

The City of Signal Hill received additional citizen inquiries regarding the City of Long Beach's plan to relocate the Hansen Aggregates rock crushing plant to a site near to Signal Hill businesses, residential areas and Burroughs School. As mentioned in my letter dated January 19, 2005, proposed rock crushing operations and truck loading and unloading should be contained within a building or enclosed system with mechanical dust collection facilities. Dust producing rock crushing operations outdoors is obsolete technology and inappropriate in an urbanized area. The City of Long Beach has an opportunity here to take advantage of the proposed relocation of this obsolete facility and apply available technologies to set an example for other similar operations in the region.

Technologies to control dust are available today. For example, the South Coast Air Quality Management District is currently circulating proposed new rules for regulating dust from cement packaging plants. If adopted, the rules would apply to two existing cement and aggregate packaging plants in the District that package cement and aggregate products for contractor supply or home improvement stores. These rules are designed to curb dust by requiring that all storage, handling and packaging of cement and aggregates occur indoors and include mechanical filters. My understanding is that the proposed rules apply only to the two existing packaging plants, but these rules have implications for future generations of ready mixed concrete plants and aggregate plants like the Hansen facility. Proposed Rule 1156 may be reviewed at <http://www.aqmd.gov/ceqa/aqmd.html> (Attachment).

The dust mitigation measures discussed in the proposed rules and associated environmental documents should be incorporated in the design of the Hansen

Aggregates facility. The required technology is straight forward – put the crushed rock and truck loading in a building and filter the dust. The greater Long Beach area is severely impacted by dust from the ports, the airport, the freeways, and construction activities. This is a unique opportunity to improve the environment by conditioning the proposal to control the dust it produces. Should you have any questions please call (562) 989-7345.

Regards,

A handwritten signature in black ink, appearing to be 'Gary Jones', written over the printed name.

Gary Jones, Director of Community Development

CC: City Manager
City Attorney
President, Board of Education

Attachment

January 2005

*Cleaning
the*

AIR

*A Monthly Newsletter from
Beatrice J. S. LaPisto-Kirtley
Mayor, City of Bradbury
AQMD Governing Board Member
Eastern Region of L.A. County*

My monthly report to the 61 Cities of the Eastern Region of Los Angeles County

Cleaning Up Aggregate Operations

Are you affected by dust pollution from industrial operations like mining facilities and concrete plants? We know they produce valuable products like sand, gravel, crushed stones, and concrete that we rely upon.

However, in Southern California, there are 389 facilities that create 29 tons of PM10 daily. These particulates are 1/7 as wide as a human hair and can create nuisance and health problems in our communities.

In January, the AQMD Board took another step to cut down on dust, calling on aggregate and mining operations to reduce their emissions by 60 percent. AQMD's adopted Rule 1157 reduces PM10 through good housekeeping and use of effective dust control methods. Some of the requirements include:

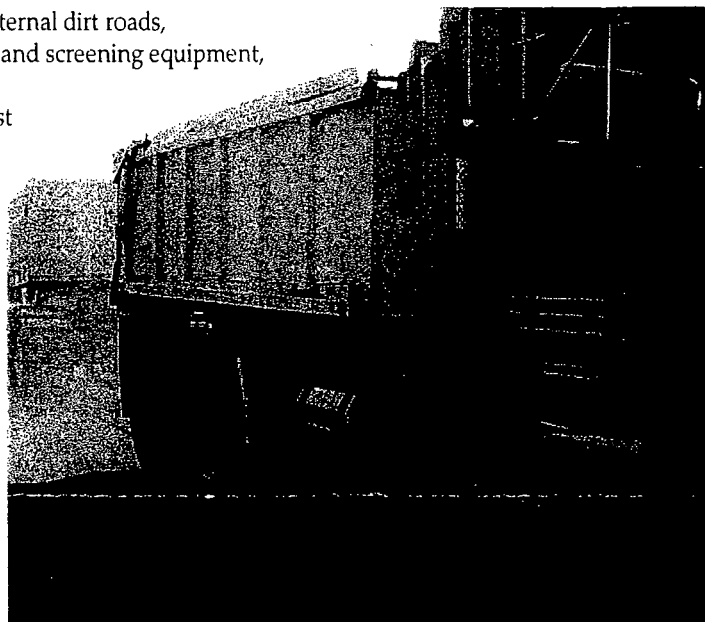
- Applying dust suppressants (like water or chemical) for internal dirt roads,
- Installing dust enclosures to control dust around crushers and screening equipment,
- limiting visible dust emissions to 100 feet,
- installing "rumble grates" at facility exits that removes dust caked onto a vehicle's tires,
- covering truck loads of material, and
- installing truck washers at facility exits.

Most of these requirements will be in place by July 2005.

Requirements for truck washers, rumble grates, and visible dust limits will begin by December 2005.

Rule 1157 is designed to cut down on dust by over 60 percent (18 tons per day of PM10). This will help our region move closer to achieving federal clean air standards for PM10 by 2006.

Dust is unavoidable around these mining operations, but AQMD is trying to find a balance that respects our right to breathe clean air. These facilities can be good neighbors if they do good housekeeping and do the obvious to control dust. We are committed to working with these businesses to address their concerns, yet expect that dust levels will substantially drop in the near future.



Funds Available for Clean Fuel Stations

If your city is looking to build or expand a natural gas fueling station that is also accessible to the public, AQMD can help pay for it. Cities can apply, as can car manufacturers, alternative fuel suppliers, manufacturers of natural gas related equipment, and anyone else who will own and operate the fueling station. The AQMD can pay for up to 50 percent of the cost to build the station, which should be operational by January 2007.

If you're interested, the following are some key dates for you to consider:

- February 11: Bidder's Conference at AQMD (9:30 am)
- March 4: Proposals due to AQMD
- May 6: Approval of projects by AQMD Board

If you have questions, please call Larry Watkins at (909) 396-3246.

FAQs Frequently Asked Questions

Q How Do I Get More Information on Air Quality Grants?

A Please call Douglas Kim at (310) 213-0429 to get information and assistance on air quality grants. You can also reach me at (909) 396-2727.

#1

JOHN R. DEATS

3600 Pacific Avenue
Long Beach, California 90807
(562) 424-6896 Cell (562) 822-1265

March 22, 2005

Tonia Reyes Uranga, Councilmember - 7th District
City of Long Beach
333 W. Ocean Boulevard - 14th Floor
Long Beach, CA 90802

RE: Agenda Item #1
Appeal of the Planning Commission's Decision to grant a Conditional Use Permit to
Hanson Aggregates to operate a recycling (crushing) operation at 1630-1660 E. 32nd
Street - Case No.: 0405-26

Dear Councilmember Uranga:

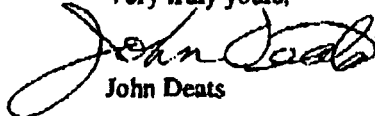
Although it was for a different agenda item, I was in attendance at the January 20, 2005 Planning Commission meeting when this item was presented to, heard by, and approved by the Planning Commission. I did not "weigh-in" on this item or give any oral or written testimony at that time. I was aware even then that successfully relocating Hanson's operation (along with some other businesses) is critical to continued progress on the Adult Sports Park. The Adult Sports Park, as you well know, runs south of Spring Street between Orange Avenue and California Avenue. Progress on said park has been painfully slow.

As I remember there was some opposition to Hanson relocating to 32nd Street from some of the surrounding businesses, but the applicant was willing to do everything humanly possible to mitigate every issue that was raised. This site was previously operated in a similar fashion several years ago.

Being a neighborhood oriented individual, I would have gone on record with oral testimony to the Planning Commission in support of any residential issues had any been raised. I can not recall there having been any residential neighborhood concerns put forward at the Planning Commission hearing by anyone in attendance that day.

Speaking only for myself, I did not find the arguments against Hanson's relocating to 32nd Street convincing at all. If it is your desire and that of your colleagues that the Adult Sports Park become a reality, then I urge you to sustain the decision of the Planning Commission to grant Hanson Aggregates the CUP they need to relocate.

Very truly yours,



John Deats

CC: Rue Gabelich, Councilwoman - 8th District