


REPORT OF THE CHIEF LEGISLATIVE ANALYST

Date: February 7, 2007

To: Honorable Members of the City Council

From: Gerry F. Miller, 
Chief Legislative Analyst

Subject: **Report from the Chief Legislative Analyst Regarding Compliance with a Writ of Mandate in Environmentalism Through Inspiration and Non-Violent Action (ETINA), et al. v. City of Los Angeles, Playa Capital Co., Inc., Case No. BS 073182**

SUMMARY

This report, prepared with the assistance of the City Attorney, is submitted to advise the City Council of actions necessary to comply with a writ of mandate issued in the lawsuit entitled Environmentalism Through Inspiration and Non-Violent Action (ETINA), et al. v. City of Los Angeles, et al. Case BS 073182 (“ETINA Litigation”), in which petitioners brought a challenge under the California Environmental Quality Act (“CEQA”) to the City Council’s June, 2001 action in “noting and filing” a report submitted by the Chief Legislative Analyst (“CLA”) on the impacts of methane. This report was prepared in connection with the City’s consideration of Mello-Roos financing for Phase I of the Playa Vista Project.

After trial, and an appeal, the Court of Appeal ruled that under the facts of this case, the City Council’s action was an “approval” of the methane mitigation measures requiring CEQA clearance, and that the City needed to set aside that “approval” until such time as it took certain actions to comply with CEQA. The Court of Appeal issued an opinion directing the trial court to order the City to set aside its “approval” for the purpose of determining if dewatering associated with the methane mitigation required additional environmental review under CEQA, and also to order the City to comply with CEQA.

On March 31, 2006, the City Council adopted a motion vacating its “approval” (CF 05-2696). In order to “comply with CEQA,” the Council needed to determine whether an additional environmental impact report or other CEQA review was required to study the impacts of dewatering before it could re-institute its “approval.” The Council directed the CLA to supervise a review and analysis of potential impacts of groundwater dewatering at Playa Vista Phase I site, including hiring consultants, obtaining studies,

receiving public input and conducting public hearings. The Council directed that the CLA, City Attorney and Public Work's Bureau of Engineering (BOE) report back to it with the results of the studies so that Council could determine whether or not the facts required preparation of an additional environmental impact report on the impacts of dewatering in order to comply with CEQA.

The CLA has completed the study and process as directed. All the documents received or generated by the City are indexed and submitted under separate cover to the Council file, in four volumes ("Attachments") The index for the Attachments, which contains a numbered list of the documents, is attached to this report for reference, as Exhibit 1.

This report concludes that the substantial evidence in these studies show that there will be no significant impacts to the environment as a result of the groundwater dewatering associated with methane mitigation systems at Playa Vista Phase I. Therefore, no additional environmental impact report is required or permitted by CEQA, and the City Council can rescind its earlier vacation of the approval.

Accordingly, the CLA recommends the following Council Actions:

RECOMMENDATIONS

1. **FIND that substantial evidence submitted to the City shows:**
 - a. **that the groundwater dewatering associated with methane mitigation systems at Playa Vista Phase I will not cause more than one-half inch of ground settlement, which is insignificant. This amount would not damage structures, infrastructure or the methane mitigation systems and does not meet the threshold for a significant geologic hazard;**
 - b. **that the slight amount of water involved in the groundwater dewatering is not sufficient to (i) cause significant changes in groundwater elevations, (ii) affect water levels or water supply in any adjacent groundwater pumping wells, or (iii) cause mobilization of existing groundwater contaminant plumes.**
2. **FIND that under State CEQA Guidelines Section 15162, there is no substantial evidence that changes in the project due to dewatering, changes in the circumstances under which the project is undertaken due to dewatering, or new information about dewatering could cause new significant environmental effects to the environment or a substantial increase in the severity of previously identified significant effects, and therefore no subsequent EIR and no supplemental EIR is required for the project.**
3. **RESCIND City Council's March 31, 2006 action (CF 05-2696) in which the Council acted to "VACATE the approval of the methane mitigation measures for the Playa Vista First Phase Project for the purpose of determining whether a subsequent Environmental Impact (EIR) or a supplemental EIR is required with respect to groundwater dewatering."**

DISCUSSION

I. BACKGROUND

A. City Actions Leading Up To The Litigation

Phase I of the Playa Vista Project was approved by the City Council in 1994. Thereafter, the Department of Building and Safety issued various construction and grading permits for Playa Vista, and construction commenced. No legal challenges were brought to these building permits.

In the late 1990's, when Playa Vista's owners sought City Council approval of Mello-Roos financing to help pay for infrastructure at the project, opponents raised methane as a safety issue, and City Council asked the CLA to head up a group of experts to report to City Council on the potential safety issues relating to methane so that Council could decide what action to take in connection with the Mello-Roos district formation and financing. The CLA study was not, and was not intended to be, either an EIR or a substitute for an EIR, since the City's action in adopting Mello-Roos financing was exempt from CEQA.

After extensive study, the CLA prepared a report entitled "City Investigation of Potential Issues of Concern for Community Facilities District No. 4 Playa Vista Development Project" and presented it to City Council in the summer of 2001. The report concluded that with imposition of various mitigation measures relating to methane (which the Department of Building and Safety had already imposed on building permits), there was no significant safety issue posed by methane.

City Council then made the finding that its approval of Mello-Roos documents was exempt from CEQA, and, in a separate action in June, 2001, "noted and filed" the CLA report after public discussion of its contents.

Subsequent CEQA lawsuits challenging the City's approval of the Mello-Roos documents were unsuccessful, as the court held that such approvals were exempt from CEQA. No lawsuits were brought to challenge the Department of Building and Safety's issuance of building permits with the methane measures, and the developer proceeded to construct the buildings, with the methane mitigation measures installed pursuant to Department-approved plans.

In December, 2001, the ETINA Litigation was instituted against the City, focusing its challenge on the City Council's action relating to the CLA report.

B. Description Of ETINA Litigation

ETINA alleged that the City Council's action in "noting and filing" the CLA methane report required a supplemental EIR to study the impacts of methane at the site. The City and Developer (Respondents in the litigation) argued that "noting and filing" is not an "approval" by the City of any development, and therefore is not an action requiring any CEQA clearance. Respondents argued that, in any event, the information in the CLA methane report showed that there were no new significant impacts from methane, and therefore no supplemental EIR was required by CEQA, even if CEQA applied to the Council's action. Finally, Respondents argued that the court had already determined

that Mello-Roos financing documents, for which the CLA methane report was prepared, were exempt from CEQA.

The trial court agreed with all of Respondents' arguments. After ETINA sought further review, the Court of Appeal held that the City Council's action in this case was subject to CEQA, and that the City Council properly concluded that methane impacts were mitigated to insignificance, and that no additional environmental review was required to study methane.

During the course of the appeal, ETINA raised the issue of groundwater dewatering associated with methane mitigation measures for the first time, claiming that such dewatering had impacts on subsidence, would cause an existing contaminated water plume to spread, and that an additional EIR was required to study that issue as well as methane. Even though ETINA had not previously raised the dewatering issue with the City or the trial court (and therefore the City had not had the opportunity to rebut the arguments that dewatering would cause impacts), the Court of Appeal considered the issue and looked at the CLA report and other evidence before it. The Court of Appeal concluded that there was insufficient evidence in the record before the Court of Appeal to show that the City had determined whether groundwater dewatering would cause significant impacts due to subsidence or expansion of the plume.

The Court of Appeal also believed that groundwater dewatering was somehow connected with the methane mitigation measures, as opposed to an independent structural requirement imposed throughout the City by the Department of Building and Safety. The Court of Appeal stated that in the absence of any evidence before it on the topic of dewatering, it was unable to presume that the City had made a finding as to the significance of groundwater dewatering and therefore whether an additional EIR was required to study that issue.

The October 26, 2005 Appellate Court decision directed the trial court to order the City to "vacate its approval of the methane mitigation measures, for the purpose of determining whether a subsequent EIR or a supplemental EIR is required with respect to groundwater dewatering, and proceed accordingly as required by CEQA." On February 23, 2006, the trial court issued a writ of mandate, directing the City to take the action quoted above, using the exact words utilized by the Court of Appeal.

C. City Motions To Comply With The Courts' Rulings

On January 11, 2006, City Council adopted a motion authorizing the CLA to hire consultants to evaluate whether groundwater dewatering associated with methane mitigation systems at Playa Vista First Phase Project would cause subsidence or mobilization of a contaminated plume in the groundwater. The Motion instructed the CLA to enter into contracts with one or two firms with substantial expertise in groundwater modeling and subsidence and to provide a peer review of potential groundwater dewatering issues. Although neither the Court of Appeal nor CEQA required the City to conduct public hearings on this matter, the Motion instructed the CLA to conduct two public hearings in Council District 11 to obtain comments relative to these issues and to incorporate relevant comments into the analysis. Lastly, the Motion instructed the CLA, City Attorney and BOE to report back to City Council so that Council could make a determination of whether an additional EIR was required.

In accordance with the January 11, 2006 City Council motion, the City retained two consultants ("Peer Reviewers") to assess whether groundwater dewatering associated with methane mitigation could cause a significant impact on the environment due to (1) subsidence or (2) mobilization of a contaminated plume.

On March 31, 2006, the City Council passed a motion which followed the letter of the writ and took action to "VACATE the approval of the methane mitigation measures for the Playa Vista First Phase Project for the purpose of determining whether a subsequent Environmental Impact (EIR) or a supplemental EIR is required with respect to groundwater dewatering."

II. DESCRIPTION OF GROUNDWATER DEWATERING SYSTEM

The groundwater dewatering associated with methane mitigation systems at Playa Vista Phase I project consists of perforated pipes which are installed roughly parallel to and slightly below the basements of some of the buildings at Playa Vista. These pipes slant slightly downwards, ending in a sump pit. When the groundwater levels from the aquifer below rise to the level of these pipes, the water goes into the perforated pipes, and gravity causes it to flow downward into the sump pit instead of continuing to rise. When sufficient water is collected in the catch basin, a pump is automatically activated to dispose of the collected water into a sanitary sewer. A diagram of a typical groundwater dewatering system at Playa Vista is attached to this report as Exhibit 2.

Some of commentors at the hearings believed incorrectly that the dewatering system at Playa Vista included "50-foot vent wells." As explained in BOE's February, 2007, report (Attachments No. 35), there is no dewatering associated with 50-foot vent wells at Playa Vista. Vent wells exist at Playa Vista Phase I, but they are not installed below buildings, and are designed to vent methane directly from the 50-foot gravel aquifer. These vent wells are for gas only, are designed to stand in groundwater for the life of the project, and are designed for passive operation, i.e., no pumps or moving parts. There is no dewatering associated with these vent wells.

III. SCOPE OF PEER REVIEW EXAMINATION OF GROUNDWATER DEWATERING IMPACTS

The Peer Reviewers were instructed to analyze all studies and other evidence presented to them relative to the impacts of groundwater dewatering associated with methane mitigation measures at Phase I of the Playa Vista Project. The scope of the review was specifically identified in response to the Court of Appeal opinion, which identified "the potential for subsidence" and "exacerbation of existing groundwater contamination" as the only "new or substantially more severe significant impacts" that could potentially result from the groundwater dewatering associated with methane mitigation measures. (These quotes are from the Court of Appeal opinion at Page 36.) The Court of Appeal had indicated that substantial evidence supported the City's decision not to prepare an EIR on each of the other alleged impacts identified by the ETINA petitioners. Therefore, although the City's January 11 Motion called for studies of impacts relating to subsidence and the plume migration, the studies presented to the City also addressed

groundwater supply, groundwater quality and groundwater levels. At any rate, no evidence was submitted to the City by any party that other types of impacts could result from groundwater dewatering.

IV. SELECTION OF CITY'S "PEER REVIEWERS"

The CLA, in consultation with the City Attorney and BOE, selected two expert geotechnical engineering/hydrogeology firms to serve as Peer Reviewers. The firms chosen were Geocon Inland Empire, Inc. (Geocon), based in Burbank, California; and Fugro West, Inc. (Fugro), based in Ventura, California. These firms were chosen given their experience and technical competence in the field of geotechnical engineering and hydrogeology. These firms were also chosen since they had no previous employment with the Playa Vista Development. The Peer Reviewers' lack of association with the Playa Vista Development was considered a key element in ensuring an independent and impartial review of the dewatering matter.

V. PEER REVIEW PROCESS

A. Peer Reviewer Tasks

Initially, the Peer Reviewers were asked to review and assess the adequacy of reports on dewatering prepared by the Playa Vista Development/Playa Capital LLC's geotechnical consultants. Additional tasks included the review of the workplan for the installation of the new sentinel/monitoring well at the Playa Vista Development site, the review of Environmental Impact Report documents and correspondences from the Los Angeles Regional Water Quality Control Board (LARWQCB). After extensive study, the Peer Reviewers submitted their initial reports.

B. Key Environmental Reports Reviewed by the Peer Reviewers

Key reports reviewed by the Peer Reviewers consisted of studies undertaken by Playa Vista Development's geotechnical consultants which reviewed the potential impacts resulting from the groundwater dewatering devices installed in Phase I of the Playa Vista site. These studies assessed whether dewatering could cause subsidence or the expansion of a pre-existing contaminated plume which was under remediation. These studies and their conclusions are summarized as follows:

1. *Group Delta Consultants report, Nov. 23, 2005*, entitled "Evaluation of Settlement Due to Lowering of Groundwater, Phase I Development Area, Playa Vista, Los Angeles, CA," for Playa Vista Capital LLC. (Attachments No.6)

This report considered the detailed stratigraphy of the site and calculated settlement and heave for those buildings in the Phase I area which had dewatering systems. The report used several methods of analysis to determine soil compressibility, such as laboratory testing of local soil samples of varying loads, as well as computer software modeling.

This report concluded that lowering the groundwater and site grade for the subject structures will result in settlement or heave of less than 0.5 inches.

2. *CDM report, Nov. 23, 2005*, entitled "Evaluation of Potential Effects of Dewatering Associated with Methane Mitigation Systems at Playa Vista Phase I Development, Playa Vista Site, Los Angeles, CA," for Playa Capital Company, LLC. (Attachments No. 5)

This report stated that groundwater remediation on the site, under the direction of the LARWQCB, creates a hydraulic pathway toward the remedial collection systems away from the building dewatering systems. This report involved developing and calibrating a numerical model that determined groundwater flow and contaminant transport. The CDM report concluded that the dewatering system does not draw sufficient water to cause a significant change in groundwater level; hence the dewatering is far too minor to mobilize the existing contamination plume or affect remedial efforts.

3. *LARWQCB letter to the Los Angeles Department of Building and Safety, December 16, 2005*, entitled "Peer Review on Report Entitled Evaluation of Potential Effects of Dewatering...." commenting on the CDM November 23, 2005 report. (Attachments No. 7)

In this correspondence, the LARWQCB stated that it had reviewed model assumptions, parameters, calibration procedures, and impact simulation/sensitivity analysis of the CDM November 23, 2005 report. It concluded that CDM's site conceptual model, boundary conditions and recharge assumptions were appropriate. The LARWQCB also agreed with the location of a new sentinel groundwater monitoring well between the contamination plumes and the methane dewatering systems at the Avalon residential complex (which is a Phase I structure on the site). This well would be used to determine if the contamination plume had spread to the dewatering area.

4. *CDM letter, January 4, 2006*, entitled "Evaluation of Worse-Case Scenario-Methane System Dewatering, in Response to LARWQCB Comments, Playa Vista Site." (Attachments No. 8)

In this letter, CDM stated that the worse-case scenarios referenced by the LARWQCB are not representative of known conditions at the site and are very unlikely to occur. One scenario assumed that the extreme high groundwater from the record year 2005 rains would continue on an infinite basis. Even under this extreme scenario, CDM stated that its conclusion reached in its November 23, 2005 report remains unchanged.

5. *LARWQCB letter to the Los Angeles Department of Building and Safety, January 10, 2006*, entitled "A Review of the report entitled Evaluation of Worse-Case Scenario-Methane System Dewatering, in Response to LARWQCB Comments Dated January 4, 2006, Playa Vista Site." (Attachments No. 10)

This letter stated that the LARWQCB concurred with CDM's conclusions that dewatering would cause no significant change or movement of the contamination plume under the worse-case scenario assumptions.

C. Peer Reviewers' Initial Reports and Conclusions

Upon review of Playa Vista development's geotechnical consultants reports, regulatory correspondences from the LARWQCB, workplan and installation of the sentinel groundwater monitoring well and resultant data, including the review of output files from model runs, the above reports and other documents listed in the Attachments, the Peer Reviewers submitted their initial reports on the dewatering matter to the BOE and CLA in June 2006.

1. *Geocon's Two June 23, 2006 Reports*

Geocon's first report, entitled "Third Party Review, Evaluation of Groundwater Model, Phase I Development Area, Playa Vista, Los Angeles, CA," reviewed the numerical model developed by CDM to simulate groundwater flow relative to the remediation systems and the transport of contamination plume on the site. The report discussed the re-running of the model with even more conservative boundary conditions and sensitivity analysis than in the original report. Geocon concluded in this report that it concurs with CDM's modeling simulations and conclusions relative to lack of movement of groundwater on the site.

(Attachments No. 3)

Geocon's second report, entitled "Third Party Geotechnical Review Evaluation of Settlement Due to Lowering of Groundwater, Phase I Development Area, Playa Vista, Los Angeles, CA", concurred with the Group Delta Consultants' reports and findings that the total settlement at the site due to dewatering is not expected to exceed 0.5 inches. (Attachments No. 2)

2. *Fugro's June 15, 2006 Report*

Fugro submitted a report entitled "Phase I Playa Vista Development, Peer Review Panel, Preliminary Report." In this report, Fugro stated that the methods utilized by Group Delta Consultants to estimate settlement and its final conclusion were appropriate. Additionally, Fugro concurred with CDM's conclusions that the local flow rates and the limited radius of influence created by dewatering would not impact the site in an adverse manner. (Attachments No. 1)

These reports concluded that dewatering would not cause any significant impacts, thus confirming the same conclusions reached earlier by the Developer's consultants.

D. BOE's First Report, Dated June 29, 2006 Report

BOE reviewed and summarized the Peer Reviewers' reports and provided a report to the CLA entitled "Peer Review of Geotechnical Reports Addressing Potential Settlement Due to Dewatering, Phase I Development Area, Playa Vista Project." BOE concurred with the Peer Reviewers' conclusions that there is no evidence that groundwater dewatering measures associated with methane mitigation measures will result in increased potential for subsidence in the development site. Furthermore, BOE noted that the dewatering will not add significant stress to the building structures or methane protection system. Additionally, BOE stated that there is no evidence that dewatering will cause mobilization of the existing contaminated plume. (Attachments No. 4)

Both the BOE summary and the Peer Reviewers' reports were posted on the City's internet website.

E. First Public Hearing On August 15, 2006

The CLA scheduled the first hearing for August 15, 2006 to obtain additional public input on the dewatering issue. The notice for the hearing also indicated that a second public hearing would be held (Attachments No. 34). On August 15, 2006, the first public hearing was held at Venice High School Auditorium in Council District 11. The purpose for the first public hearing on the dewatering matter was to present the peer review process and the initial peer review reports to the public and to obtain any additional comments and evidence relative to the groundwater dewatering under Phase I of the Playa Vista Development, specifically the issues of subsidence and mobilization of the contaminant plumes.

The hearing was conducted by the CLA in conjunction with a panel composed of the City Attorney, BOE and the Peer Reviewers. During the hearing, BOE provided a summary of its report and of the Peer Reviewers' reports and subsequently, the panel opened the hearing to public comment relative to the issue of dewatering.

The panel heard comments from numerous members of the public. Upon the conclusion of these comments, the CLA informed the public that the comment period would remain open for the submittal of any additional written comments. The public was also informed that comments obtained relevant to the dewatering issue would be reviewed by the Peer Reviewers, as part of their further analysis of the matter. Upon the conclusion of this analysis, supplemental reports would be released and a second public hearing would be scheduled. Speaker cards, a transcript of that hearing, and all information submitted by various individuals and groups are submitted to the Council file. (Attachments Nos. 24-34).

Following the first public hearing, the Peer Reviewers were instructed to revisit their analysis in light of comments and evidence received from the public prior to, during, and after the first public hearing.

F. Peer Reviewers' Supplemental Reports

As part of the supplemental analysis, Geocon and Fugro were instructed to review the August 15, 2006 hearing transcript and 10 document sets of materials submitted by interested parties, and to address those issues pertinent to dewatering.

1. *Fugro's Supplemental Report Dated October 24, 2006*

Fugro submitted a report to the BOE and CLA, entitled "Playa Vista Phase I Development, August 15, 2006 CLA Public Hearing, Response to Comments" relative to its review of the supplemental information. Fugro stated that there was no new information offered at the hearing or in submitted documents to change its original conclusions as summarized in its June 15, 2006 report. (Attachments No. 22)

2. *Geocon's Supplemental Report Dated November 2, 2006*

Upon the completion of its review of the supplemental information, Geocon submitted a report to the BOE and CLA, entitled "Response to Public Comments

Third Party Review - Evaluation of Settlement Due to Lowering of Groundwater Model, Phase I Development Area, Playa Vista, Los Angeles, CA." This report described the results of additional model runs undertaken by Geocon where it employed a variety of inputs and boundary conditions. The report also provided responses to questions regarding the flow model utilized, calibration process and sensitivity analysis. However, Geocon concluded in its report that no new information had been presented, or comments or questions raised, that changed its conclusions in its initial reports. (Attachments No. 23)

G. BOE's Second Report Dated November 3, 2006

BOE reviewed the supplemental reports submitted by the Peer Reviewers and summarized the reports and findings in its report, dated November 3, 2006, entitled "Responses to Questions and Input from the First Public Hearing of August 15, 2006 Relevant to Dewatering Impacts of Methane Mitigation Systems - Phase I, Playa Vista Project" (Attachments No. 21). This report was subsequently submitted to the CLA, and posted on the City's website, along with the two Peer Reviewer Supplemental Reports.

H. Second Public Hearing On November 16, 2006

On November 3, 2006, the CLA published notice of a second public hearing on the groundwater dewatering issues, to be held on November 16, 2006, also in Council District 11 (Attachments No. 44). The purpose of the second public hearing was to present the supplemental analysis and reports to the public in light of comments and evidence received after publication of the Peer Reviewers' initial and supplemental reports on dewatering.

On November 16, 2006, the second public hearing was held. It was conducted by a panel composed of the CLA, City Attorney, BOE and the Peer Reviewers. BOE provided a summary of its November 3, 2006 report and of the Peer Reviewers' supplemental reports. Upon the conclusion of the staff presentation, the panel opened the hearing to comments from the public, from the LARWQCB, from Playa Capital, LLC, and from the litigants. Extra time was given to the litigants. Speaker cards, a transcript of that hearing, and all information submitted by various individuals and groups are submitted to the Council file. (Attachments Nos. 36-44)

After the hearing's public comment period was closed, the CLA informed the public that the comment period for additional submitted items would remain open for an additional two weeks. The CLA also informed the public that subsequent to the closing of the comment period, the matter would be forwarded to the City Council for its consideration and determination of whether the information compiled relative to the effects of dewatering on subsidence and mobilization of the plume requires preparation of any additional environmental review under CEQA.

I. BOE's Third Report Dated February, 2007

BOE's Report, entitled "Supplemental Report Re: Public Hearing of November 16, 2006 and Documents Relevant to Impacts of Groundwater Dewatering Associated With Methane Mitigation Systems - Phase I, Playa Vista Project" addressed the information obtained at the second public hearing, along with any additional materials submitted after the November 3, 2006 Report. In its report, BOE concludes, based on all the

information submitted to the City, that the groundwater dewatering associated with methane mitigation measures at Playa Vista Project Phase I will not cause any significant effects on the environment. The text of its finding is contained in the report. (Attachments No. 35)

VI. STANDARDS FOR REQUIRING SUBSEQUENT OR SUPPLEMENTAL EIRs UNDER CEQA

CEQA provides that once an EIR has been certified and a project approved by the City, no additional environmental review may be required unless:

- substantial changes are proposed in the project which would require major revisions of the existing EIR;
- substantial changes occur in the circumstances under which the project is undertaken which require major revisions in the existing EIR; or
- new information which was not and could not have been known at the time of the existing EIR, becomes available. (Public Resources Code Section 21166)

However, even if any of these circumstances exist, CEQA does not provide for or require additional environmental review unless there is a later discretionary approval for the project. Thus, under State CEQA Guidelines Section 15162(c), “[i]nformation appearing after an approval does not require reopening of that approval.” However, if there is a subsequent discretionary approval for a project, the City must determine if additional new information exists and, if so, whether it requires additional environmental review. In this case, although the City argued otherwise, the Court of Appeal ruled that under the unique circumstances surrounding the CLA's preparation of the methane study, the City Council's June, 2001 action in "noting and filing" the CLA methane report constituted a discretionary approval for purposes of CEQA.

Therefore, the City must now make the determination whether an additional environmental document must be prepared. The standards for that decision are set forth in State CEQA Guidelines Section 15162, which requires that the following be present for the City to be able to require an additional EIR.

First, there must be the three circumstances listed above (i.e. either substantial changes in the project or its circumstances, or the discovery of “new information of substantial importance”).

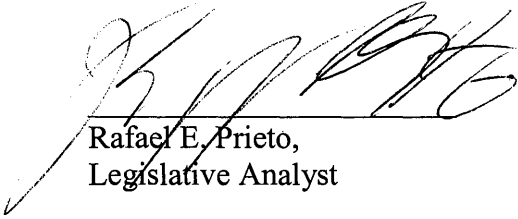
Second, substantial evidence must also show that:

- (1) The project will have new significant effects;
- (2) Existing significant effects will be substantially more severe; or
- (3) Considerably different (or previously found infeasible) mitigation measures would substantially reduce impacts, but project proponents refuse to implement those measures.

This Report recommends that City Council find, as specified above in the Recommendations section, that none of these circumstances or evidence exists, and therefore no additional EIR need be prepared to discuss groundwater dewatering.

VII. SUBSEQUENT ACTION REQUIRED BY LITIGATION

If City Council adopts the recommendations of this Report, the City Attorney will advise the trial court and ask that the court make a determination that the City has complied with the requirements of the writ of mandate.



Rafael E. Prieto,
Legislative Analyst

- Exhibit 1 Index to attachments submitted to Council File
- Exhibit 2 Diagram of Typical Dewatering System at Playa Vista Phase I

**INDEX OF ATTACHMENTS TO THE JOINT REPORT FROM THE
CHIEF LEGISLATIVE ANALYST AND THE CITY ATTORNEY'S
OFFICE REGARDING COMPLIANCE WITH A WRIT OF MANDATE
(Environmentalism Through Inspiration and Non-Violent Action (ETINA), et al. v. City
of Los Angeles, Playa Capital Co., Inc. Case No. BS 073182)**

* References listed under the noted Report/Supporting Documentation categories and by date.

VOLUME 1

Initial Peer Review Reports

- 1) Fugro West, Inc., June 15, 2006, *Phase I Playa Vista Development, Peer Review Panel, Preliminary Report*
- 2) Geocon Inland Empire, Inc., June 23, 2006, *Third Party Geotechnical Review, Evaluation of Settlement Due to Lowering of Groundwater, Phase I Development Area, Playa Vista, Los Angeles, CA*
- 3) Geocon Inland Empire, Inc., June 23, 2006, *Third Party Review, Evaluation of Groundwater Model, Phase I Development Area, Playa Vista, Los Angeles, CA*
- 4) City of Los Angeles, Bureau of Engineering, June 29, 2006, *Peer Review of Geotechnical Reports Addressing Potential Settlement Due to Dewatering, Phase I Development Area, Playa Vista Project*

Documents/Data Reviewed under the Initial Peer Review Reports

- 5) CDM, November 23, 2005, *Evaluation of Potential Effects of Dewatering Associated with Methane Mitigation Systems at Playa Vista Phase I Development, Playa Vista Site, Los Angeles, CA*, for Playa Capital, LLC
- 6) Group Delta Consultants, Inc., November 23, 2005, *Evaluation of Settlement Due to Lowering of Groundwater, Phase I Development Area, Playa Vista, Los Angeles, CA*, for Playa Capital, LLC

VOLUME 2

- 7) California Regional Water Quality Control Board, Los Angeles Region (LARWQCB), December 16, 2005, *Peer Review on Report Entitled "Evaluation of Potential Effects of Dewatering Associated with Methane Mitigation Systems at Playa Vista Site Phase I*

Development, Dated November 23, 2005" Playa Vista Site, Los Angeles, CA, correspondence to the City of Los Angeles, Department of Building and Safety

- 8) CDM, January 4, 2006, *Evaluation of Worse-Case Scenario - Methane System Dewatering, in Response to LARWQCB Comments, Playa Vista Site, Los Angeles, CA, correspondence to the LARWQCB*
- 9) Playa Capital LLC, January 6, 2006, *Work Plan to Install a Sentinel Monitoring - Playa Vista Site, Los Angeles, CA, correspondence to the LARWQCB*
- 10) LARWQCB, January 10, 2006, *A Review of the Report Entitled "Evaluation of Worse-Case Scenario - Methane System Dewatering, in Response to LARWQCB Comments," Dated January 4, 2006, Playa Vista Site, Los Angeles, CA, correspondence to the City of Los Angeles, Department of Building and Safety*
- 11) CDM, April 16, 2006, *First Quarter 2006 Groundwater Monitoring and Progress Report, Playa Vista, 6775 Centinela Avenue, Los Angeles, CA, for Playa Capital Company, LLC (CD-ROM)*
- 12) CDM, May 9, 2006, *Playa Vista Groundwater Model Output Files and Reports (CD-ROM)*
- 13) CDM, May 10, 2006, *Responses to Additional Information Requests from Fugro West to the City of Los Angeles, correspondence to Playa Capital Company, LLC*
- 14) CDM, May 25, 2006, *Playa Vista Site Model Input Files (CD-ROM)*

Additional Documents Reviewed under the Initial Peer Review Reports

- 15) City of Los Angeles (1993) *Playa Vista Phase I Environmental Impact Report and 1995 combined Mitigated Negative Declaration/Addendum to the EIR and 2004 Playa Vista Phase II EIR (CD-ROM)*
- 16) CDM, May 19, 2000, *Soil and Groundwater Investigation Phase I Project (Excluding Former Dream Works Project), Report and Appendices A through E, for Playa Vista Phase I Commercial Land Company LLC (CD-ROM)*
- 17) LARWQCB, May 17, 2002, *Request for "No Further Action" (NFA), Product 400 - Playa Vista, 6775 Centinela Avenue, Los Angeles, CA, correspondence to Playa Capital Company, LLC*
- 18) City of Los Angeles (2003), *Draft Environmental Impact Report (DEIR), Village at Playa Vista, Volume I, Book 1, EIR No. ENV-2002-6129-EIR (CD-ROM)*
- 19) City of Los Angeles (2003), *Draft Environmental Impact Report (DEIR), Village at Playa Vista, Volume VIII, Technical Appendix F, EIR No. ENV-2002-6129-EIR (CD-ROM)*

- 20) City of Los Angeles (2003), Draft Environmental Impact Report (DEIR), Village at Playa Vista, Volume IX, Technical Appendix F EIR No. ENV-2002-6129-EIR (CD-ROM)

VOLUME 3

Supplemental Peer Review Reports: Post 1st Public Hearing

- 21) City of Los Angeles, Bureau of Engineering, November 3, 2006, *Responses to Questions and Input from the First Public Hearing of August 15, 2006 Relevant to Dewatering Impacts of Methane Mitigation Systems - Phase I, Playa Vista Project*
- 22) Fugro West, Inc., October 24, 2006, *Playa Vista Phase I Development, August 15, 2006 CLA Public Hearing, Response to Comments*
- 23) Geocon Inland Empire, Inc., November 2, 2006, *Response to Public Comments Third Party Review - Evaluation of Settlement Due to Lowering of Groundwater Model, Phase I Development Area, Playa Vista, Los Angeles, CA*

Comments/Documents Reviewed under the Supplemental Peer Review Reports: Post 1st Public Hearing

- 24) **Comment Letter #1:** Grassroots Coalition, August 15, 2006, August 15, 2006, *CLA Hearing & Response to Questions from the Office of the City Attorney regarding the Notice of Information Required for Adequate CEQA Review filed as part of Environmentalism Through Inspiration and Non-Violent Action ("ETINA") v. City of Los Angeles and Playa Capital, LLC in accordance with City Council File No. 05-2696, correspondence and attachments to the City of Los Angeles, City Attorney*
- 25) **Comment Letter #2:** Richard I. Fine & Associates, August 15, 2006, *January 11, 2006 City Council Motion and August 15, 2006 CLA Hearing Violate the February 23, 2006 Writ of Mandate in ETINA et al. v. City of Los Angeles, et al. LASC Case No. BS 073182, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst*
- 26) **Comment Letter #3:** Latham & Watkins, August 15, 2006, *Playa Vista Phase One Project/Peer Review Public Hearing, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst*
- 27) **Comment Letter #4:** Grassroots Coalition, August 16, 2006, *CLA Hearing of August 15, 2006 Venice High School conducted on behalf of the City Council regarding Playa Vista First Phase Project and Peer Review, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst*

- 28) **Comment Letter #5:** Purcell, Leslie, August 16, 2006, *Playa Vista Phase I Peer Review*, correspondence and attachments to the City of Los Angeles, Office of the Chief Legislative Analyst
- 29) **Comment Letter #6:** Purcell, Leslie, August 16, 2006, *Playa Vista Phase I Peer Review*, 2nd correspondence and attachments to the City of Los Angeles, Office of the Chief Legislative Analyst
- 30) **Comment Letter #7:** Klein, Donald, August 16, 2006, *Public Hearing Peer Review first phase project Playa Vista, Venice High School Auditorium August 15th 2006*, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst
- 31) **Comment Letter #8:** City of Los Angeles, Rosendahl, Bill, Councilmember, 11th District, *Playa Vista First Phase Project and Peer Review*, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst
- 32) **Comment Letter #9:** Sierra Club, August 18, 2006, *Playa Vista Peer Review of Dewatering of Gas Mitigation System*, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst
- 33) **Comment Letter #10:** Grassroots Coalition, August 22, 2006, *Playa Vista First Phase Project and Peer Review (Public Hearing) & Continued CLA Office Review*, correspondence and attachments to the City of Los Angeles, Office of the Chief Legislative Analyst

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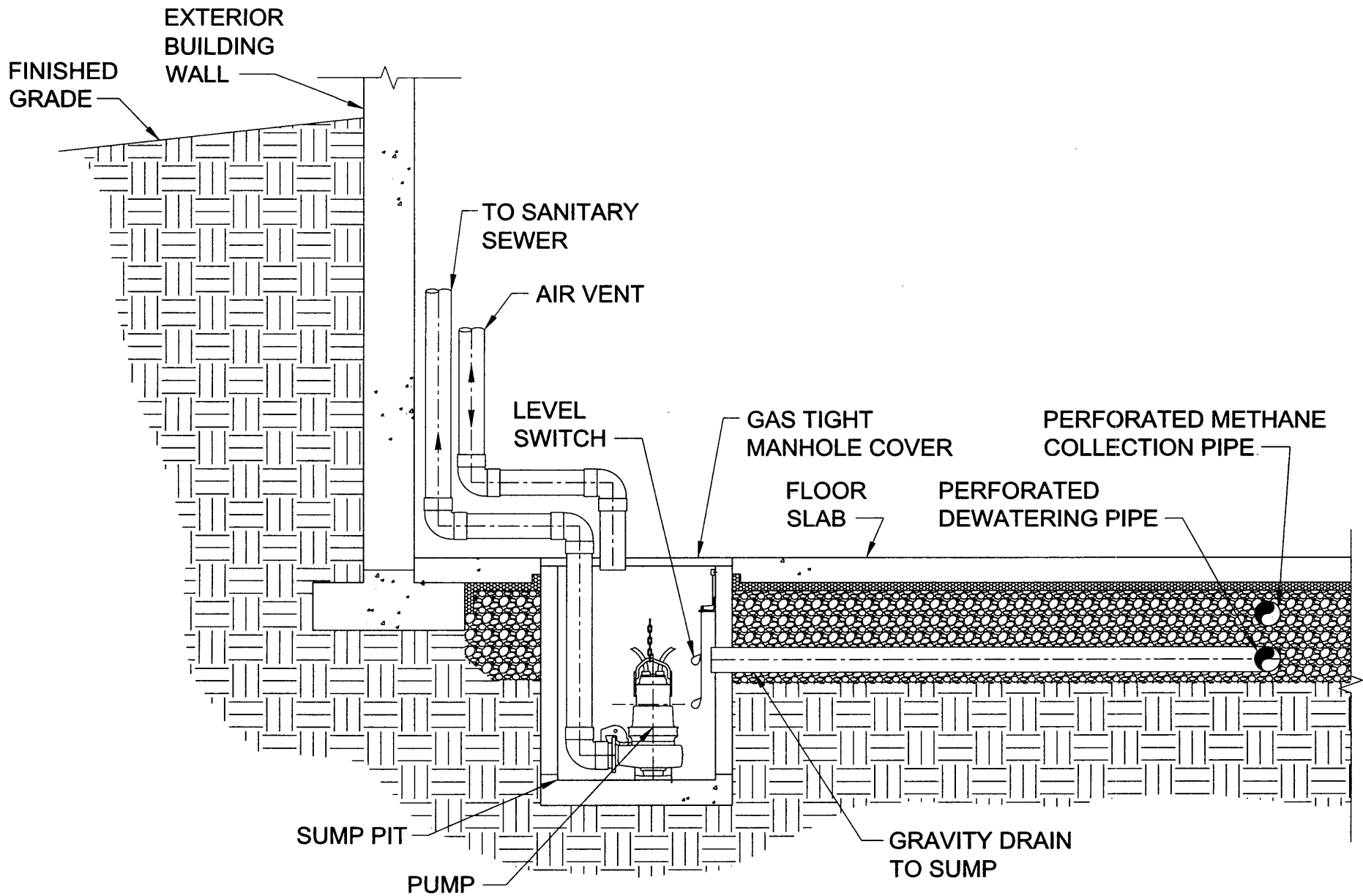
- 34) **Public Hearing Transcript - August 15, 2006**, Venice High School Auditorium, 13000 Venice Boulevard, Los Angeles, CA; CLA, July 12, 2006, Notice of Public Hearing: *Playa Vista First Phase Project and Peer Review*, speaker cards

Supplemental Peer Review Report: Post 2nd Public Hearing




- 35) City of Los Angeles, Bureau of Engineering, February, 2007, entitled *Supplemental Report Re Public Hearing Of November 16, 2006 Relevant to Impacts of Groundwater Dewatering Associated With Methane Mitigation Systems - Phase I, Playa Vista Project*

Comments/Documents Reviewed under the Supplemental Peer Review Report:
Post 2nd Public Hearing

- 36) **Comment Letter #11:** Latham & Watkins, November 16, 2006, *Playa Vista/CLA Hearing on November 16, 2006*, correspondence and attachments to the City of Los Angeles, Office of the Chief Legislative Analyst
- 37) **Comment Letter #12:** Latham & Watkins, November 16, 2006, *Playa Vista/CLA Hearing on November 16, 2006*, 2nd correspondence and attachment to the City of Los Angeles, Office of the Chief Legislative Analyst
- 38) **Comment Letter #13:** Richard I. Fine & Associates, November 16, 2006, *January 11, 2006 City Council Motion, August 15, 2006 CLA Hearing and November 16, 2006 Hearing Each Violate the February 23, 2006 Writ of Mandate in ETINA et al. v. City of Los Angeles, et al. LASC Case No. BS 073182....*, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst
- 39) **Comment Letter #14:** Sierra Club, November 16, 2006, correspondence and attachment to the City of Los Angeles, Office of the Chief Legislative Analyst
- 40) **Comment Letter #15:** Grassroots Coalition, November 17, 2006, 2nd *Public Hearing: Playa Vista First Phase Project Supplemental Reports Discussing Comments on Certain Dewatering Issues*, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst
- 41) **Comment Letter #16:** Sierra Club, November 20, 2006, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst
- 42) **Comment Letter #17:** Grassroots Coalition, December 12, 2006, *Response to 2nd CLA Response*, correspondence to the City of Los Angeles, Office of the Chief Legislative Analyst
- 43) **Comment Letter #18:** Klein, Donald, correspondence to the City of Los Angeles, Rosendahl, Bill, Councilmember, 11th District
- 44) **Public Hearing Transcript - November 16, 2006**, Loyola Marymount University's St. Roberts Auditorium, 1 LMU Drive, Los Angeles, CA; CLA, November 3, 2006, Notice of 2nd Public Hearing: *Playa Vista First Phase Project, Supplemental Reports Discussing Comments on Certain Dewatering Issues*; speaker cards



LEGEND:

-  METHANE MEMBRANE
-  PERMEABLE GRAVEL
-  NATIVE SOILS AND/OR ENGINEERED FILL