

EXHIBIT 1



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Mr. Alfred Wong, Project Manager
700 Heinz Avenue, Suite 200
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**Subject: DRAFT HAZARDOUS WASTE FACILITY PERMIT AND PROPOSED
NEGATIVE DECLARATION – CleanTech Environmental Inc.**

Dear Mr. Wong:

I have reviewed the Initial Study and Draft Negative Declaration for the Hazardous Waste Facility proposed by CleanTech Environmental Inc. (CleanTech). The facility is to be located at 5820 Martin Road in the City of Irwindale. CleanTech has applied for approval of a Hazardous Waste Facility Permit by the Department of Toxic Substance Control (DTSC) to allow CleanTech to construct and operate a used oil recycling facility and to store drums of used oil, waste antifreeze, and non-Resource Conservation and Recovery Act (RCRA) wastewater (Project). DTSC has prepared an Initial Study and Draft Negative Declaration in an attempt to comply with the California Environmental Quality Act (CEQA). However, in my review of the environmental documents prepared by DTSC, information provided in the Initial Study is not adequate to support adoption of a Draft Negative Declaration by DTSC. Rather, it is clear that the Project may have numerous significant environmental impacts, and DTSC must analyze these impacts in an environmental impact report (EIR). Moreover, as noted below, CEQA Section 21151(a)(3) requires that an EIR be prepared for the Project. It is clear that the CleanTech facility has a capacity far in excess of 1,000 tons per month and that the facility is being built for a capacity far in excess of 1,000 tons per month. As such Section 21151(a)(3) requires that an EIR be prepared for the Project.

I am a CEQA practitioner with more than 30 years of experience in preparing, processing, and reviewing environmental documents as staff at public agencies and as a private consultant. Attached is my firm resume. I have prepared and processed hundreds of legally defensible CEQA documents throughout California. Additionally, I am a skilled planner with in-depth knowledge in local planning documents. This unique combination of skills and knowledge provides the necessary expertise to conduct a thorough review of the Initial Study and Draft Negative Declaration. In so doing, I have found that the Initial Study fails to address, or inadequately addresses, many environmental concerns that are required to be addressed under CEQA.

CEQA is intended to ensure that all environmental impacts and potential environmental impacts of a project are adequately considered. Based on CEQA Guidelines Section 15063, through the Initial Study process, the Lead Agency should be able to determine if the project may have a significant effect on the

environment. However, the Initial Study must be conducted and prepared with a certain level of expertise and knowledge and rely on substantial evidence to determine its findings. Without this level of detail, the Initial Study becomes useless. In addition, as described in CEQA Guidelines Section 15070, CEQA has a very low threshold for when an EIR must be prepared. An EIR is required when there is substantial evidence of a fair argument that a project may have a significant impact on the environment. This standard is met for this Project. The Initial Study does not adequately disclose and analyze the proposed hazardous waste facility's impacts. Further, based on the information that is available, it is clear that the Project may have a number of significant impacts on the environment; certainly enough information is presented to show that CEQA's low threshold for requiring an EIR is met. DTSC must prepare an EIR to fully review, analyze and mitigate the potential impacts of the Project.

It is surprising to see that a Negative Declaration for a hazardous waste facility does not include a single mitigation measure. CEQA requires analysis of the total physical capacity of the facility and not an arbitrary "limit" imposed by DTSC to avoid a specific requirement in CEQA to prepare an EIR. Based on the information presented and omitted, it is clear that the Project may have numerous significant impacts on the environment that must be further analyzed an EIR. For impacts that are significant, the EIR must include mitigation measures to reduce impacts to below a level of significance. Additionally, the EIR must include a discussion of project alternatives, including alternative locations, which may reduce or avoid the project's significant environmental impacts.

GENERAL COMMENTS

The Project Requires Preparation of an EIR as a Large Treatment Facility

CEQA Section 21151.1(a)(3) requires that an EIR be prepared for "[t]he initial issuance of a hazardous waste facilities permit pursuant to Section 25200 of the Health and Safety Code to an offsite large treatment facility, as defined pursuant to subsection (d) of Section 25205.1 of the Health and Safety Code." According to Section 25205.1(d), a "large treatment facility" is defined as "a treatment facility with capacity to treat, land treat, or recycle 1,000 or more tons of hazardous waste." A "small treatment facility" is defined as "a treatment facility with capacity to treat, land treat, or recycle more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste." It is abundantly clear from the information presented in the Initial Study that the proposed hazardous waste facility will have a capacity far in excess of 1,000 tons per month. As such CEQA mandates that an EIR be prepared.

DTSC has added a condition to the draft CleanTech permit that the authorized limit of hazardous waste that may be treated or recycled at the proposed facility is 1,000 tons per month, classifying the CleanTech facility as a "small treatment facility." However, there is no discussion of how this limit is enforced or even how quickly the limit could be reached. It appears that DTSC has arbitrarily placed this limit on the Project for the sole purpose of identifying the facility as a "small treatment facility" without providing any meaningful basis upon which to determine if the facility can realistically stay within that limit based on its monthly operations. How much do facilities of a similar size treat and/or recycle on a monthly basis? What are the limiting factors at this facility that would prevent the treatment of more than 1,000 tons per month? Why would a facility that is designed and built to treat several thousands of tons per month be limited to 1,000 tons per month except to avoid the legal requirement to prepare an EIR?

Additionally, the statute does not rely on “permitted capacity” but instead only speaks to “capacity.” Looking at the different units to be permitted in the draft permit, it is clear that the actual capacity of the Project is much greater than 1,000 tons per month. For example, the total capacity of all of the units at the Project that are described in the draft permit is 243,240 gallons. Based on a specific gravity of 0.88, a gallon of oil weighs 7.34 pounds. Thus, the project can hold over 1.7 million pounds of oil (7.34 multiplied by 243,240). The Initial Study fails to disclose how many times a month the production will be turned over. Were this capacity to be turned over only twice a month, the Project would exceed the 1,000-ton per month threshold. It is likely that the capacity will be turned over far more frequently than twice per month, meaning that the Project is likely far over the 1,000 ton per month threshold. Similar facilities can turn over their capacity 10 to 15 times per month. If the facility is turned over 10 times a month, then the actual capacity would be in excess of 8,000 tons per month. Neither the Initial Study nor the Draft Permit provides any information with regards to industry standards for turn over of production capacity and what measures would be applied to the proposed project that would preclude the facility from exceeding the 1,000 tons per month limit. The Project should be defined as a “large treatment facility.”

Even if the Project were somehow able to successfully argue that it did not meet the 1,000-ton per month of capacity threshold found in the statute, as a project that is likely to have environmental impacts, an EIR would otherwise be required by Public Resource Code section 21151.1(a)(3). By definition, the “project” a Lead Agency must analyze under CEQA includes “reasonably foreseeable” environmental consequences of the project. This has been subsequently refined by the courts to include reasonably foreseeable future expansion. Because the Project has the capacity to treat more than 1,000 tons per month, it is reasonably foreseeable that the Project may one day want to utilize the full capacity of the Project, putting it undoubtedly over the 1,000-ton per month capacity threshold. DTSC has misclassified the Project based on the statutes, and preparation of an EIR is required.

Project Definition

The Initial Study makes reference to future actions and/or permits (such as a future permit from the Los Angeles County Sanitation District or a Storm Water Discharge Permit) that have not been analyzed in the Initial Study. This is in strict violation of CEQA. CEQA Guidelines Section 15378 defines a project as “*the whole of an action, which has a potential for resulting from either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment [...]*”. Under CEQA, the project as a whole must be analyzed. Anticipated subsequent actions associated with the Project, such as application for additional permits, are considered part of the Project as a whole and must be analyzed with the Project. The future actions that are part of the Project may cause significant environmental impacts. An EIR is required for the Project that includes the analysis of all project elements.

The Project is Not in Compliance with the City of Irwindale’s Municipal Code

The proposed Project is located within the City of Irwindale’s M-2 (Heavy Manufacturing) Zone. Section 17.56.010 of the Irwindale’s Municipal Code lists the permitted uses in the M-2 Zone, and **hazardous waste treatment is not on the list of allowable activities**. Uses that the zoning code does not call out as allowed are prohibited. Therefore, hazardous waste processing is prohibited, because the zoning code

does not list hazardous waste processing as an allowed use.¹ In order to allow hazardous waste treatment facilities in the M-2 zone, the City's Municipal Code must be amended. Additionally, the zoning code specifically regulates the type of use the Project will be: "processing facilities" that process recyclable material.² But the zoning code specifically prohibits processing facilities, like the Project, from accepting "hazardous materials, including but not limited to, automotive fluids."³ Thus, the zoning code specifically prohibits the Project's use, and the Project cannot be allowed unless the City of Irwindale amends its zoning code.

Even if the Project were allowed under the current zoning code (which it is not), it would require a Conditional Use Permit. Section 17.56.020 lists the uses requiring a Conditional Use Permit, [b]ecause of considerations of smoke, fumes, dust, vibration, noise, traffic congestion, or hazard (emphasis added). Because the proposed facility would "recycle" hazardous waste, it could be classified as "recycling facilities." Recycling facilities require issuance of a Conditional Use Permit by the City of Irwindale. Additionally, the proposed Project is a hazardous waste treatment facility with some degree of hazard involved. Because it will store and treat large volumes of used oil and other hazardous waste, there will be associated fumes and traffic.

Furthermore, Section 17.80.030 of the City's Municipal Code specifically states when Conditional Use Permits are required. According to Section 17.80.030, "[a]ll uses which involve the use, sale, or storage of any materials classified as toxic or hazardous by either the federal or state government as a substantial part of the total use shall require a CUP, as shall the parking or storage of vehicles used to carry such materials." The proposed Project certainly meets this definition. Therefore, the Project requires the City of Irwindale to amend its zoning code and to issue a Conditional Use Permit; and, as part of the City of Irwindale's Conditional Use Permit process, the applicant must provide substantiation "that the proposed use will not have an adverse effect on adjacent property." There is no information provided in the Initial Study that such an action would be required. This information is valuable in understanding the proposed Project; without it, the reviewer is deprived of a full and meaningful review of the Project.

Appropriateness of DTSC as Lead Agency

The requirement for a zoning code amendment and other City approvals brings into question whether DTSC can act as the Lead Agency for the Project. CEQA Guidelines Section 15051 provides guidance on the determination of which agency would be the Lead Agency for a project. Section 15051 (b)(1) states that "[t]he Lead Agency will normally be the agency with the general governmental powers, such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district or district which will provide a public service or a public entitlement to the project."

Because the City of Irwindale must issue a permit for the Project, it has the general governmental powers and should, therefore, be the Lead Agency. DTSC is similar to an air pollution control district, as referenced in CEQA, and has limited powers, which would be classified as a Responsible Agency. Allowing Irwindale to assume the role of Lead Agency not only puts the burden of proof in issuing the local land use approvals on the City decision-makers, but also ensures that the CEQA study more

¹ City of Irwindale Municipal Code, §§ 17.56.010, 17.56.020.

² City of Irwindale Municipal Code, § 17.56.080.

³ City of Irwindale Municipal Code, § 17.56.090(B)(12).

accurately reflects the concerns of the local community. DTSC would still be responsible for review of the Project to issue a Hazardous Waste Facility Permit. Furthermore, in several places, the Initial Study references consistency with the City of Irwindale's policies. (See, for example, Initial Study item 4.f. under Biological Resources.) Without inserting the City's authority in reviewing and authorizing the Project, stating that the Project would implement the City's policies is spurious.

Inadequate Discussion and Representation of the Santa Fe Dam Recreational Area

The Santa Fe Dam Recreational Area is located immediately south and west of the proposed facility. The Area is a valuable resource to Irwindale and the surrounding communities. Irwindale's General Plan identifies several endangered plants that call Irwindale home, along with many wildlife species that have the potential of being listed in the future; and the County of Los Angeles identifies the Area as a Significant Ecological Area. The Area, as an open expanse, is a sanctuary of many protected species, and thus is deserving of protection. Additionally, the Area is a gathering place for families and others who flock to the area to participate in its many recreational activities, like swimming, fishing, biking, horseback riding, hiking, and so on. No discussion of the potential impacts on the many species living in the Area, or the activities that take place in the Area daily, is included in the Initial Study.

Furthermore, when the Area is discussed in the Initial Study, it is done so with such brevity and with lack of supporting facts or analysis. For example, the Initial Study states, without any support, "*DTSC cannot foresee any reasonable pathway for waste at the facility to impact the Santa Fe Dam Recreation Area.*" Yet, it is clear from the figures in the Initial Study that the Area is in extremely close proximity to the Project, and that to access the Project, trucks hauling hazardous waste will be required to pass by the Area. Moreover, contamination of the ground water and spills could adversely affect the Area. Therefore, it is entirely foreseeable that accidents and spills at the Project site or runoff from trucks as they pass have a real chance of impacting the Area. The Initial Study contains no information discounting the possibility that patrons enjoying the northeast corner of the Area will not notice odors, noise, or other impacts from the Project. As such, there is no basis for DTSC's statement that there is no foreseeable way that the Project could impact the Area. The Project may have significant impacts on the Santa Fe Dam Recreational Area, and DTSC must analyze those impacts in an EIR.

INITIAL STUDY REVIEW

Project Description

The Initial Study makes vague remarks about transport of the hazardous materials that would be treated at the proposed facility (such as "*primarily uses Interstate 210*"). However, it appears that trucks could also use a variety of other routes to access the facility, some of which traverse residential neighborhoods. The Initial Study should include a map that shows the transport route. Additionally, if the Initial Study is dependent on transport routes that do not go through residential neighborhoods – as is implied in the Initial Study – the Project should be conditioned such that trucks must follow a specific route to access the facility. The routes that may be used to access the facility must be presented in the EIR to address the potential significant impacts from transporting hazardous materials.

Initial Study Item 3: Air Quality

For a project of this size, a project-specific air quality analysis is generally required, particularly given the potential for release of hazardous fumes and emissions and the proximity of sensitive receptors in the Project area. It is unusual that DTSC has failed to include a project specific air quality analysis for the Project. An air quality analysis should be prepared that clearly evaluates whether air quality impacts could result from the Project.

With regard to item 3.d., the Initial Study states that there are no sensitive receptors in the area. It appears that an analysis of sensitive receptors in the Project area was not conducted, as this statement is incorrect. The sensitive ecological area is in very close proximity to the Project. In addition, the recreation area is park frequented by thousands of people. In addition, two daycares are located within a half-mile of the Project, and it appears that many daycares are within three miles of the Project. A high school and five elementary schools are within a mile and a half of the Project. Numerous nursing homes, assisted living centers, and other similar facilities are within three miles. There are sensitive receptors in the vicinity of the Project, and the Project may have significant impacts on them. DTSC must analyze these potential significant impacts in the EIR.

Initial Study Item 4: Biological Resources

While, as stated in the Initial Study (page 17), it is recognized that the Project site is within a "heavy industrial zone", it is also located immediately adjacent to the Santa Fe Dam Recreational Area, one of the largest and most important sensitive ecological areas in the region. Not only does the Santa Fe Dam Recreational Area serve as a valuable park and recreation resource for residents of Irwindale, Azusa, and other cities in the San Gabriel Valley, but is also home to many protected native plants and animals.

The Initial Study focuses on the distance of the proposed facility to the "paid parking lot entrance" and the "swim beach". The Initial Study acknowledges that "[a] number of threatened, rare, and/or endangered species are identified as being located within the general area of the Facility", but then dismisses this fact by stating that "the Facility and surrounding area is highly urbanized and does not have any sensitive habitat to impact." However, this statement is not supported by any factual information or analysis. A biological resources survey and report has not been prepared. It is unclear where sensitive habitat, threatened, rare, and/or endangered species are located relative to the Project site and proposed facilities. Without this factual information, DTSC cannot conclude that there would be no direct, indirect, or cumulatively significant impacts to biological resources. Stating that the "California Department of Fish and Game (DFG) reviewed the CleanTech Initial Study and provided no comments?" is completely understandable given the complete lack of information and analysis in the Initial Study to allow for thoughtful review. In fact, DTSC completely ignores the existence of the sensitive ecological area in the first draft of the Initial Study and Draft Negative Declaration and then mentions it only in passing in the second draft environmental document. DTSC has shirked its responsibility to conduct a thorough analysis in order to determine the extent of the Project's risk to biological resources. No information or analysis is presented by DTSC regarding the "threatened, rare, and/or endangered species are identified as being located within the general area of the Facility" that DTSC acknowledges are present. How is the public or decision makers supposed to evaluate the adequacy of the environmental document when the information to do so is non-existent?

Initial Study item 4.f. states that the proposed Project will be implemented consistent with the City of Irwindale's policy as it relates to maintaining current data and information on biological resources including the types of habitats, individual species, and their locations. However, except for conducting a generalized search for sensitive and endangered species, **a biological resources survey and report has not been prepared**; and there is no other indication as to how the proposed Project will maintain current data and information on biological resources. This fails to meet CEQA's minimum standards of disclosure and analysis. The Project is adjacent to a protective area that provides habitat for threatened, rare, and endangered species and may impact these sensitive resources through spills, air emissions, water discharges, or foreseeable accidents. These potential impacts must be analyzed and in the EIR, and mitigation measures must be implemented to reduce significant impacts to below a level of significance.

The Lead Agency must require that a biological resources survey and report be prepared for the proposed project that addresses the project's potential for direct, indirect, and cumulative effects. Specific project design features, specific permit conditions, and any mitigation measures that will ensure that no impacts to biological resources occur must be discussed and imposed in an EIR. The Draft Negative Declaration fails to include a single mitigation measure designed to protect the adjacent sensitive habitat.

Initial Study Item 5: Cultural Resources

The discussion under item 5 of the Initial Study states that "[i]n the event that archaeological or paleontological resources should be encountered during excavation and grading activities, the City General Plan states all work would cease until appropriate salvage measures are established." Additionally, the Initial Study states that "it is possible that project activity could unearth previously unknown human remains." These issues constitute potentially significant Project impacts under CEQA, and require DTSC to analyze the potential significant impacts in the EIR and adopt mitigation measures. The EIR must include mitigation measures to ensure that impacts can be reduced to below a level of significance. However, no mitigation measures are identified in the Negative Declaration or as conditions of the permit. This is in violation of CEQA. Cultural resources must be addressed in the EIR, clearly indicate the potential to encounter unknown cultural resources, and require mitigation measures in the event that resources are encountered. Additionally, in accordance with CEQA Guidelines Section 15097, a Mitigation Monitoring and Reporting Program must be adopted.

Initial Study Item 6: Geology and Soils

The discussion of Geology and Soils appears to be based on the applicant's permit application, which states that "*the Facility is not within 3,000 feet of an active earthquake fault [...]*". CEQA requires that the Lead Agency conduct an independent review of the proposed project's impacts. The Lead Agency cannot rely on hearsay from the applicant unless such statements can be supported by technical expertise. Therefore, the Lead Agency should require that a geotechnical report be prepared for the project that accurately evaluates the potential for geologic hazards, seismic risks, liquefaction and seiche risks. It is important to note that the proposed facility is close to a large body of water. There is no analysis of potential risks associated with a seismic or other event causing a release of water from the Sante Fe Dam area. Such an analysis must be included in the EIR.

It appears in reviewing the *References Used* for the discussion of Geology and Soils that DTSC relied on information presented in the *Target Store Redevelopment Project Draft Environmental Impact Report*. The Initial

Study cannot rely on information in a **draft** document that has not yet been certified by a Lead Agency, which questions the validity of the analysis in this section of the Initial Study.

Initial Study Item 8: Hazards and Hazardous Materials

The discussion under item 8.a. completely ignores the analysis of the Project's potential to "*create a significant hazard to the public or the environment throughout the routine transport*" (emphasis added). Nowhere does the Initial Study evaluate the transport route for trucks loaded with hazardous materials and accessing the facility. While the Initial Study implies that transport would be via Interstate 210, review of circulation in the Project area reveals that there are many other logical routes that trucks could follow, some of which are through residential neighborhoods. Nowhere in the Negative Declaration is there a mitigation measure requiring any particular routing for hazardous waste trucks. All potential access routes to the facility must be presented in the EIR and the potential for significant impacts associated with transport of hazardous materials must be addressed. DTSC should consider mitigation that would limit the route of transport to the facility along specified roadways.

Where there will be millions of gallons of hazardous waste transported, there is the potential for spills and other incidents, even when the best practices are employed, but the Initial Study takes the approach that these spills and incidents might only happen at the Project site, and not anywhere else. This is clearly not the case, as tanker trucks will be required to transport the hazardous waste and oil to and from the Project site. Impacts outside the confines of the Project due to accidents, by an employee or transporter, are readily foreseeable and must be analyzed, especially where there is the possibility that the Santa Fe Dam Recreational Area or one of the many nearby sensitive receptors could be impacted. These potential impacts must be analyzed in an EIR.

The discussion under item 8.a. states that the flashpoint for used oil is fairly high – approximately 400°F – and concludes that the possibility of a fire starting without an external source is minimal. However, the Initial Study also recognizes that *sparks, open flames, and cigarettes* could be a source of ignition. What precludes these sources – particularly sparks and cigarettes – or particularly an accident from occurring? These significant impacts must be analyzed in the EIR and appropriate mitigation measures presented.

Initial Study Item 9: Hydrology and Water Quality

This section includes inconsistencies with regards to wastewater discharge. Specifically, this section states that "*wastewater will [...] be shipped to an authorized offsite treatment or disposal facility. If in the future, CleanTech does want to discharge into the sewer system, CleanTech will apply to both the Public Works and Los Angeles County Sanitation District for an industrial wastewater discharge permit.*" However, in the discussion of item 6.c., the Initial Study states that "*[m]unicipal wastewater from the site is discharged to a sanitary sewer.*" Other sections of the Initial Study state: "*[w]ater from containment areas is collected and pumped into a holding tank, tested to determine if it is hazardous, and either released to the POTW in accordance with permit discharge limits or disposed of offsite as hazardous waste.*" These inconsistencies must be corrected in the EIR.

The Initial Study contains no analysis of the potential transport issues associated with shipping of wastewater which is required to be transported offsite (traffic, greenhouse gases, air quality, hazards). There is no discussion of where offsite wastewater would be transported or the capacity of offsite facilities to handle the additional wastewater. The EIR should include an estimate of the number of truck trips,

quantities of wastewater to be disposed, and the capacity of the wastewater sewer system. The environmental document must analyze any future permits required to dispose of wastewater into the wastewater treatment system, if it is reasonably foreseeable as is implied in the Initial Study.

Even where the best containment methods are in place, there still could be a release from the Project, yet the Initial Study discounts this possibility and then skips any analysis of what impacts a release could have on local groundwater and surface water resources. Clearly the lake and beach at the Santa Fe Recreational Area could be impacted by a release of oil that is washed away from the site in a storm. The Initial Study acknowledges that the San Gabriel Canyon Basin aquifer is under the Project, but an analysis of the likelihood of impacts to this aquifer has not been conducted. Irwindale's General Plan discusses the aquifer underlying the Project as one that has the potential to be used as a water source, but if it is impacted by contamination from industry in Irwindale, like the Project, its utility as a water source will be limited. Based on the other deposits in the area, it is likely that the Project is situated on top of alluvial deposits from the San Gabriel River, meaning that it would likely be on top of high porosity soils that could quickly transport any released fluids downward and into the aquifers. Because these significant impacts are reasonably foreseeable, they must be analyzed and mitigated in an EIR.

Initial Study Item 10: Land Use and Planning

Relative to Land Use and Planning, the Initial Study is severely lacking in its presentation of existing and planned land uses and zoning, as well as discussion of the applicable General Plans policies and Zoning regulations. Without this detailed discussion, the basis for determining potential impacts associated with Land Use and Planning is missing. Not only does the Project require a zoning code amendment and appear not to be consistent with the Irwindale General Plan (sufficient information to make such a determination is lacking), the Project has not been analyzed to determine whether it meets the various goals of the General Plan. Until this analysis is done, a conclusion on whether the Project would conflict with any applicable *land use plan, policy, or regulation* cannot be made. An EIR is required that includes this analysis, and both the City of Irwindale and the City of Azusa must be consulted. Furthermore, due to the Project's location within the City of Irwindale and adjacent to the City of Azusa, both the Irwindale and Azusa General Plans should be evaluated. It is not uncommon for adjacent jurisdictions to contain different – and sometimes conflicting – policies with regard to land use. Additionally, the discussion of Land Use and Planning should be expanded to address any *applicable habitat conservation plan or natural community conservation plan* that occurs in the Project area; or in the least, state that there are no habitat conservation or natural community conservations plans that could be affected by the Project.

The Project also does not appear to have consulted with the fire department and local authorities to coordinate transportation of hazardous materials through Irwindale as required by the General Plan. Nor does the Initial Study make any findings about the potential for accidents in Irwindale, something specifically contemplated in the General Plan. Simply checking “*No Impact*” under issue areas 10.a. and 10.b. is not acceptable and in strict violation of CEQA. The Project may have significant impacts related to land use. These impacts must be addressed in the EIR, and mitigation measures must be provided to reduce significant impacts to below a level of significance.

Initial Study Item 12: Noise

It appears in reviewing the *References Used* for the discussion of Noise that DTSC relied on information presented in the *Irwindale Materials Recovery Facility and Transfer Station Project Draft EIR*. The Initial Study cannot rely on information in a **draft** document that has not yet been certified by a Lead Agency. Therefore, the validity of the analysis of Noise impacts is questionable. The Project will introduce additional heavy trucks and industrial processes almost adjacent to the Santa Fe Dam Recreational Area. This may cause significant noise impacts, which must be analyzed in the EIR.

Initial Study Item 14: Public Services

The Initial Study does not include evidence to support the conclusion that the Project would not result in significant impacts to public services. Instead, the Initial Study makes a general statement that the Project "*will not impact existing fire or police rations, response times, or other performance objectives.*" However, there is no evidence that service providers were even consulted during conduct of the Initial Study or that current services and response times are adequate to serve the Project and surrounding areas. Service providers, including Fire and Police, should be consulted to determine if the proposed facility would impact existing resources.

Initial Study Item 16: Transportation and Traffic

The Initial Study does not include a discussion of the potential routes that trucks hauling hazardous material will use to access the facility. Therefore, the Initial Study does not adequately address item 16.c. – *substantially increase hazards due to [...] incompatible uses*. The Project requires transport of hazardous materials, and there is an inherent risk in potential for accidents associated with this transport. The Project may cause a significant impact in transportation of hazardous materials, which must be addressed in the EIR. Transport routes could traverse residential neighborhoods. However, the Initial Study does not address the potential for accidents to occur and what measures and/or precautions would be implemented to ensure that risks are reduced to below a level of significance.

Initial Study Item 17: Utilities and Service Systems

Item 17.a. states: "*[i]f approved, the Facility will apply for a Storm Water Discharge Permit.*" CEQA Section 15378 defines a project as "*the whole of an action, which has a potential for resulting from either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment [...]*". Under CEQA, the Project as a whole must be analyzed. Anticipate subsequent actions associated with the Project, such as application for an additional permit, are considered part of the Project as a whole and must be analyzed with the Project. Additionally, the Initial Study does not address the potential impacts associated with urban runoff that could be laden with pollutants and how such runoff would affect adjacent sensitive areas, such as the Santa Fe Dam Recreational Area. Deferring this analysis to the Water Quality Control Board does not provide the public with the thorough investigation of impacts required by CEQA for an Initial Study. Potential impacts of urban runoff from the Project must be addressed in the EIR.

Under the discussion of solid waste generation (item 17.f.), the Initial Study states that the facility would use the Azusa Land Reclamation Landfill for disposing of solid waste and the Landfill "*has sufficient permitted capacity for disposal of current hazardous waste generated by the facility.*" How can the future quantities be determined without knowing what the lifetime is for the Landfill and how much hazardous waste would

be generated by the facility? The Initial Study fails to include any of these quantities. Also, the Initial Study speaks to "*current hazardous waste*". Are there potential impacts that could occur in the future, during the lifetime of the facility, that would affect the Landfill? There are no facts or other basis to support the Initial Study's conclusion that "*the project is not expected to increase the amount of waste to be disposed in a landfill.*" The Project's potential impact to landfill capacity must be disclosed and analyzed in the EIR.

Mandatory Findings of Significance

An important and essential element in making the Mandatory Findings of Significance is consideration of a project's cumulative impacts. It is obvious that DTSC has not conducted an analysis of cumulative impacts to support its finding that *the Project does not have impacts that are individually limited but cumulatively significant*, as required in Mandatory Findings of Significance "b". Review of Exhibit 6-4 in the City of Irwindale's General Plan indicates that there are numerous hazardous waste sites in the City. Additionally, review of EnviroFacts indicates that there are no less than 12 EPA-regulated facilities within a 300-foot radius of the proposed Project, which either generate, transport, treat, store, or dispose of hazardous waste. It is unknown what other additional projects currently under review in the City (such as the *Irwindale Materials Recovery Facility and Transfer Station Project*) or adjacent cities and how many future projects could be anticipated that would also involve storage, treatment, and/or transport of hazardous wastes. *When viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects*, the Initial Study does not have the information and analysis required to conclude that there would no significant environmental impacts associated with the Project. Therefore, DTSC cannot make the Mandatory Findings of Significance. DTSC must analyze the Project in an EIR—together with all potential cumulative impacts from past, current, and reasonably foreseeable projects.

Determination of Appropriate Environmental Document

As described above, the Initial Study is lacking in the most basic information and analysis about key parts of the Project. Despite the amount of information and analysis missing from the Initial Study, it can readily be seen that the Project may cause significant environmental impacts. DTSC must conclude that the Project **may have** a significant impact on the environmental and that an EIR is required to analyze and mitigate those impacts. Moreover, CEQA Section 21151.1(a)(3) requires the preparation of an EIR. The facts clearly demonstrate that this is a "large treatment facility" and requires an EIR. Moreover, it is reasonably foreseeable that this facility will treat many thousands of tons per months. An EIR is mandated.

CONCLUSION

In my experience of over 30 plus years of professional planning, environmental analysis, and project management in both the public and private sectors, it is my expert opinion that DTSC cannot rely on the Initial Study, as currently prepared, to support its determination that a Negative Declaration can be adopted for the proposed Project. There are clearly potential impacts that will be caused by this Project that have not been disclosed in the Initial Study, and the discussion of other environmental issue areas is not supported by factual analysis. Each of the issues presented in this letter presents a strong basis to conclude that the Project may have significant environmental impacts. DTSC must reconsider its CEQA analysis and prepare an EIR. Furthermore, preparation of an EIR is required for the Project, as the

Mr. Alfred Wong, Project Manager

July 5, 2012

Page 12

facility meets the definition of a "*large treatment facility*." The Project should be submitted to the City of Irwindale for review as Lead Agency.

Sincerely,



Karen L. Ruggels

K L R PLANNING

Karen L. Ruggels

Owner
Principal



Karen Ruggels is a San Diego native, graduating from San Diego State University in 1980 with a Bachelor of Science Degree in Biology and a Minor in Geography. Beginning her planning career in the environmental field at CalTrans, Ms. Ruggels went on to work eight years for the City of San Diego, serving as Senior Planner, and subsequently 18 years in the private sector before starting her own consulting company in 2005.

Ms. Ruggels has over 30 years of professional planning, environmental analysis, and project management experience in both the public and private sectors. Her expertise includes site and policy planning, environmental review processing, environmental document preparation, planning document preparation, project management, resources management, writing and public presentations, and agency coordination. She has experience in preparing complex and technical Master Plans, Specific Plans, and other land use documents, as well as design guidelines, community plans and community plan amendments, and general plan amendments. Her project management skills have played a key role in obtaining approvals for a wide variety of projects ranging from Specific Plans to Planned Development/Tentative Map entitlements for mixed use, residential, institutions, commercial, and industrial uses. She is also skilled in preparing and processing resource agency permits (U. S. Army Corps of Engineers 404 permits, State Fish and Game Section 1600 permits).

ENVIRONMENTAL REVIEW AND DOCUMENT PREPARATION/PROCESSING

Ms. Ruggels is proficient in environmental review and document preparation in compliance with NEPA and CEQA. As a seasoned environmental planner with a wide array of NEPA and CEQA experience, Ms. Ruggels has prepared and/or processed a full range of environmental documents and clearance, including:

NEPA

- Preliminary Environmental Study (PES)
- Categorical Exclusion (CE)
- Environmental Assessment (EA)
- Environmental Impact Statements (EIS)
- Section 4(f) Evaluation

CEQA

- Exemption
- Addendum
- Initial Study (IS)
- Negative Declaration/Mitigated Negative Declaration (ND/MND)
- Environmental Impact Report (EIR)
- Supplemental/Subsequent Environmental Impact Report
- Program Environmental Impact Report

Ms. Ruggels' knowledge of CEQA and NEPA is well recognized by her peers and respected by her clients. She is often requested to participate as a panel member in local annual CEQA conferences at both the "nuts and bolts" and the advanced levels. Ms. Ruggels believes that the only way to stay in-step with the constantly changing world of environmental review and land development is to regularly attend workshops and conferences that provide current policy review and update, as well as state-of-the-art approaches to addressing environmental analyses and provide for innovative planning tools. Most recently, Ms. Ruggels has attended conferences focusing on sustainability and urban design, global climate change, water resources and availability, and changing regulations related to reducing greenhouse gas emissions and carbon footprint.

EDUCATION

B.S., Biology (Minor, Geography), 1980, San Diego State University

PROFESSIONAL AFFILIATIONS

Association of Environmental Professionals (AEP)

American Planning Association (APA)

CERTIFICATIONS

Project Management for Planners, APA

Project Management, Ronald I. LaFleur, Cadence Management Corp.

Academy 2000, Supervisors Academy, Dr. Richard I. Lyles

CURRENT AND RECENT ENVIRONMENTAL PROJECTS

Uptown/North Park/Greater Golden Hill Community Plan Update PEIR, City of San Diego
The Watermark EIR, City of San Diego
Otay Valley Quarry Reclamation Plan Amendment EIR, City of Chula Vista Quarry Falls Specific Plan PEIR, City of San Diego
Stone Creek Master Plan EIR, City of San Diego
Espanada EIR, City of Chula Vista
Village 7 SPA Plan EIR, City of Chula Vista
Bella Lago EIR, City of Chula Vista
US 95 EIS, Idaho Department of Transportation

PLANNING AND PROJECT MANAGEMENT EXPERIENCE

Added to Ms. Ruggels' years of experience in environmental review, document preparation, and processing is her lengthy career as a planner. Ms. Ruggels has processed virtually every entitlement approval through a variety of local jurisdictions, including:

Community Plans and Community Plan Amendments	Coastal Plan Amendments and Coastal Development Permits
Specific Plans and Specific Plan Amendments	Conditional Use Permits
Master Plans	Major and Minor Use Permits
Precise Plans	Tentative Maps
Rezones	Street and Easement Vacations
Planned Development and Site Development Permits	Lease of City Property

CURRENT AND RECENT PLANNING AND PROJECT MANAGEMENT PROJECTS

Stone Creek – Community Plan Amendment/Master Plan/Rezone, City of San Diego
The Watermark – Community Plan Amendment/Planned Development Permit/Rezone, City of San Diego
San Diego Polo Club – Site Development Permit, City of San Diego
Erma Road – Community Plan Amendment/Planned Development Permit, City of San Diego
University Office and Medical Park – Specific Plan/General Plan Amendment, City of San Marcos
Lux Art Institute – Major Use Permit Amendment, City of Encinitas
Vulcan-Otay Mesa – Major Use Permit, County of San Diego
Parcel Map 35212 – General Plan Amendment/Rezone/Parcel Map, Riverside County

Working with local community groups, other agencies, jurisdictions, and local interested citizens, Ms. Ruggels' abilities include understanding and analyzing the simplest to the most complex of issues. Ms. Ruggels' extensive experience in working directly with staff members of a variety of public jurisdictions and private clients has resulted in having achieved successful processing of projects. She works hard to ensure a smooth integration of work efforts with client staff assigned to the project. Her responsiveness, attention to staff requests, and undying commitment to the client ensures that schedules are met. Her intimate knowledge of planning and environmental review enable her to quickly adept to project changes, which often arise during preparation of the environmental document or as a result of project refinements following the public review period.

Additionally, Ms. Ruggels is accustomed to working with applicants and clients with seemingly impossible schedules. She is experienced in developing work programs which meet the project's scheduling challenges through efficient management techniques including, but not limited to, conducting tasks in a concurrent manner; close and regular coordination with the Project Team, City staff, and subconsultants; beginning tasks as early as possible; and avoiding down-time by active participation in all aspects of the project's review and approval processes.

Ms. Ruggels is also committed to her company's policy of active community involvement. She currently sits on the board of the Mission Valley Community Planning Group, is an alternative for the Grantville Redevelopment Area Stakeholders Committee, and is a past board member for the Mira Mesa Community Planning Group and the Navajo Community Planners. Karen believes this participation provides unique insight into the projects she works on providing a clearer understanding of the public's concerns and issues.