

# Exhibit B

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## **DISCUSSION**

On September 14, 2005, The Monterey County Planning Commission approved Combined Development Permits- for S&S Land Development (PLN030510), Pick-N-Pull Auto Dismantlers (PLN030498), and Gerald & Deborah Cutler (PLN030501) via Resolution Nos. 05050, 05048, and 05049 respectively. The entitlements consisted of: 1) Coastal Development Permit to allow vehicle dismantling and auto-parts sales within Dolan Industrial park and 2) a General Development Plan including drainage improvements and a water system connection. A Mitigated Negative Declaration was also approved in 2005 for the S&S Land Development (PLN030510), Pick-N-Pull Auto Dismantlers (PLN030498), and Gerald & Deborah Cutler (PLN030501) projects. The issues analyzed in the Mitigated Negative Declaration were: aesthetics, agriculture and forest resources, geology/soils, hazards/ hazardous materials, hydrology/ water quality, land use/planning, mineral resources, noise, population/ housing, public services, recreation, transportation/ traffic, and utility/ service systems.

On March 11, 2005 S&S Land Development (PLN140713), Pick-N-Pull Auto Dismantlers (PLN140677), and Gerald & Deborah Cutler (PLN140714) were approved for an extension of the previously approved Coastal Development Permits and adopted a Technical Addendum to the previously adopted Mitigated Negative Declaration from September 14, 2005. The Addendum addressed greenhouse gas emissions thresholds. At the time, Monterey Bay Unified Air Pollution Control District (MBUAPCD) had not yet finalized specific GHG thresholds of significance, nonetheless the short-term impact thresholds from construction were addressed in the MBUAPCD's Air Quality Management Plan. Additionally, on October 24, 2008 California Air Resources Board (CARB) interim CEQA significance thresholds for GHG impacts were in place. CARB's thresholds indicated that a project would be considered less than significant if it met minimum performance standards during construction of the project, and with mitigation, would emit no more than approximately 7,000 million metric tons of carbon dioxide per year during operation. These project impacts were identified as being well below the administered CARB threshold in the Technical Addendum.

Shortly after, on March 26, 2015, Ecological Rights Foundation (ERF), a California environmental non-profit organization submitted an appeal of the Monterey County Planning Commission's approval of the extension of the Coastal Development Permits to the Monterey County Board of Supervisors. ERF's appeal of the Planning Commission's approval included the following reasons:

- 1) Reliance on the 2005 Mitigated Negative Declaration violates the California Environmental Quality Act in that 1) new and existing information about pollutant discharges from these facilities to environmentally sensitive habitats in and around Elkhorn Slough, and changed circumstances in wildlife use of the Elkhorn Slough, command the need for a complete environmental impacts analysis before the CDP extensions may be granted;

- 2) The record before the Planning Commission was insufficient to support its findings and in fact shows the Facility's non-compliance with prior conditions; and
- 3) The auto dismantling and recycling operations, and consequent discharges of polluted storm water to Elkhorn Slough are incompatible with the Coastal Act's and the County's Local Coastal Program's policies and objectives.

ERF supported these arguments with observations and laboratory analysis of sampling taken from areas near the discharge locations. The results from the samples concluded that there were discharges of toxic materials into the slough.

The Board of Supervisors opened a hearing on the appeal on May 19, 2015, which was subsequently continued for 15 months in order to accommodate time for water quality studies and biological surveys to be undertaken. On August 30, 2016, ERF asked for a further continuance of the appeal hearing until the December 6, 2016 Board of Supervisors meeting to allow them to work with the applicant on the finalization of a settlement agreement. On October 5, 2016 ERF submitted a letter to withdraw the appeal of the approval of the extension for the Coastal Development Permits. The appeal withdrawal was based upon finalizing a Settlement Agreement and Consent Decree.

The proposed site improvements are in accordance with the Consent Decree and include implementing additional structural Best Management Practices (BMP's) for storm water treatment at each of the site's four locations. Improvements at each location will include constructing a concrete-lined forebay/ settling basin and bio retention basin, connection to existing interceptor vaults, and associated plumbing and grading activities. Improvements at discharge location 2B will also include expansion of the 'StormwaterRx' treatment system and paving of the production yard surface. No work is proposed in the public right of way or outside the property boundary. Unit A (Premier Facility) are the Outfall 1A and 2A and Unit B (Main Facility) are Outfall 1B and 2B. Unit B is where the highest potential for contamination is present and where the majority of the improvements will occur.

Discharge Locations 1A and 2A located at 516 A Dolan Road (APN 131-054-001-000) are covered under PLN160859, S&S Land Development. The improvements at discharge location 1A would cover an area of approximately 0.61 acres and construction of the improvements will require approximately 1,140 cubic yards of cut and 685 cubic yards of fill. The improvements on discharge location 2A would cover an area of approximately 0.75 acres and construction of the improvements will require approximately 1,172 cubic yards of cut and 489 cubic yards of fill.

Discharge location 1B located at 516 C Dolan Road (APN 131-054-003-000) is covered under PLN160861, Cutler. The improvements will cover an area of approximately 0.98 acres and

construction of the improvements will require approximately 2,908 cubic yards and 1,266 cubic yards of fill.

Discharge location 2B is located on 516 B Dolan Road (APN 131-054-002-000) in the area covered under PLN160860 Pick-N-Pull Auto Dismantlers. The improvements will cover an area of 0.53 acres and construction of the improvements will require approximately 3,554 cubic yards of cut and 60 cubic yards of fill.

Prior to any work beginning in each of the discharge locations, linear sediment controls and other construction storm water BMPs will be incorporated to achieve minimization of potential sediment in construction runoff. Some of structural BMPs include but are not limited to: maintenance of the storm water treatment system, proper employee trainings regarding the storm water treatment system, and the continuous sampling of the storm water before and after treatment to evaluate the effectiveness of the system. The soils in the area of the forebays will be graded and compacted, and the bioretention basin areas will be excavated. The current existing earthen berms at all of the outfall locations will be enlarged as part of the construction to accommodate additional storm water storage and maintenance traffic; excess soils from the forebay and bioretention basin will be used to enlarge the berms. In the course of the berm enlargement process, the existing concrete interceptor vaults will be relocated within the newly enlarged berms. After the work on the berms is completed, compaction of the surface with rock along the surface of the top width of the berms and will also have their respective slopes stabilized with rock and vegetation. The berms at discharge locations 1A and 2A will have an impermeable liner installed in efforts to minimize infiltration in the vicinity of the eastern boundary slopes. These improved berms at locations 1A and 2A will include spillways to allow potential emergency overflow.

The proposed installation of the bioretention basins will progress with the placement of 24 inches of gravel fill, an underdrain piping system, and then 18 inches of planted and engineered soil. Compaction of the earthen berms will be constructed between the forebay and bioretention basin which will be equipped with weirs to allow accumulated storm water to decant into the bioretention basins. An overflow riser will be installed within the bioretention basin to allow drainage of the site in the instance that that the basins is hydraulically overloaded. The proposed forebays will be surfaced with concrete to aid with periodic sediment removal.

The discharge locations at 1A, 2A, and 1B, will have their respective underdrain system connected to the repositioning on the concrete interceptor vaults and water will be discharged through the existing outfalls. At discharge location 2B, the potential runoff from areas disturbed by grading and other related construction activities will be collected in the existing interceptor vault and pumped to the forebay through the distribution feeder piping to be installed as a component of this amendment. From this particular point water will flow from the concrete-lined forebay, through the bioretention area, into a new collection vault in which a pump will transfer the storm water to

newly expanded StormwaterRx system for treatment and the treated water will be discharged through the existing outfall piping. Expansion of the StormwaterRx system and paving of the production yard shall occur contingently with construction of the proposed improvements.

The Consent Decree required that the Structural BMP provide treatment for the storm water discharges to a level commensurate with Best Available Technology Economically Achievable (BAT) and the Best Conventional Pollutant Control Technology (BCT), in which have been implemented into the improvements and ongoing maintenance of the storm water treatment system.

#### Environmental Review

A Mitigated Negative Declaration was adopted on September 14, 2005 for the originally approved Combined Development Permits (PLN030510, PLN030498, PLN030501). This document is attached as Exhibit G, for reference. In 2015, an Addendum to the 2005 Mitigated Negative Declaration was prepared for the extension of the Coastal Development Permits. Staff considers the 2005 Mitigated Negative Declaration to be of continued adequacy and relevance to the amendments of the Combined Development Permits consisting of Coastal Development Permits and General Development Plan to allow storm water treatment system improvements and additional Structural BMPs. An addendum to the 2005 Mitigated Negative Declaration has been drafted in order to specifically address potential impacts resulting from contaminated discharge into Elkhorn Slough that were not analyzed in 2005.

All Mitigations Measures which were implemented in 2005, which remain relevant to ongoing operations have been carried over to these amendments. Best Management Practices as outlined in the 2005 mitigations shall continue along with the proposed additions to the Best Management Practices pursuant to the project conditions.

#### Recommendation

Staff is recommending approval of the Amendment to the Combined Development Permit and adoption of an Addendum to the 2005 Mitigated Negative Declaration.