

San Benito County:

Public Records Reveal
Deception and Misconduct

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Overview: Renegade County Officials betray public trust

1. Public records withheld by County show serious misconduct. Only a sampling of those records is provided here
2. County expert found 3.5 mile hazard buffer needed around Trical chemical plant due to serious risks to the public resulting from major releases of toxic chemicals
3. County Counsel and staff first tried to **bury** and then **smear** the County's own hazard report in an effort to promote the Strada Verde project
4. A **whistleblower** released the expert Hazard Report, and then County Counsel tried to justify a smaller buffer through a tainted "peer review"
5. County Attorney Ellinwood revealed Strada Verde developer's misleading language in Measure N was designed to delete hazard buffer requirement, without telling the voters
6. County Counsel shamelessly advanced a project with minimal viability in a hazardous area and acted with brazen bias regarding Measure N
7. A **smoking gun e-mail** written by a senior County executive:

"I don't say this lightly but what I am seeing is **morally wrong**. This is serious and we all have an obligation to protect the health and safety of our residents. In the lawsuit the county just lost, the judge ruled the ballot question was misleading and biased, in a pattern exactly parallel to this. **This needs to stop.**"
8. Unfortunately, the misconduct did not end there....

Request: Residents ask that the Board of Supervisors promptly convene a public meeting to address this serious misconduct.

Hazardous materials handled at chemical plant led to isolated location in County

1. Chemical plant handles large volumes of ***poisonous chemicals***
2. Trical location chosen and approved by County because of its ***"isolation from locations of human habitation and employment"*** as stated in Trical's original 1977 Conditional Use Permit:

USE PERMIT
SAN BENITO COUNTY
PLANNING COMMISSION

NO 97-77

In accordance with the provisions of Ordinance No. 358 of the County of San Benito, State of California, a USE PERMIT is hereby GRANTED to Soil Chemicals Corporation

for: the purpose of packaging and formulating agricultural fumigants from bulk tanks to cylinders, storage, and distribution of same, on property designated as Assessor's Parcel No. 13-07-05, located on the south-east side of Bolsa Road at the S.P.R.R. intersection, with the following conditions:

1. That San Benito County benefit from all sales tax generated as a result of this operation.
2. That the applicant drill a well and provide an adequate supply of water at the site.

The Environmental Impact Report was approved as meeting the specified requirements by CEQA.

GRANTED by the Planning Commission of the County of San Benito, State of California, this 16th day of February, 19 78

Donald P. Egge
SECRETARY
County Planning Commission
San Benito County, Calif.

(COPY)

SOIL Chemicals Corporation

1150 RED GUM
ANAHEIM, CALIFORNIA 92803
Phone (714) 630-7570

P. O. BOX 531
MORGAN HILL, CALIFORNIA 95037
Phone (408) 779-3736

Description of Proposed
Fumigant Formulation Facility
HOLLISTER

A desirable site has been located in parcel 13-07-5, located at the intersection of Bolsa Road and the S.P. Railroad northwest of Hollister. This site is now occupied by a sugar beet loading facility operated by Spreckles Sugar Company. The sugar beet loader has not been active for several years. Although it is reserved by lease for possible use, such use is unlikely.

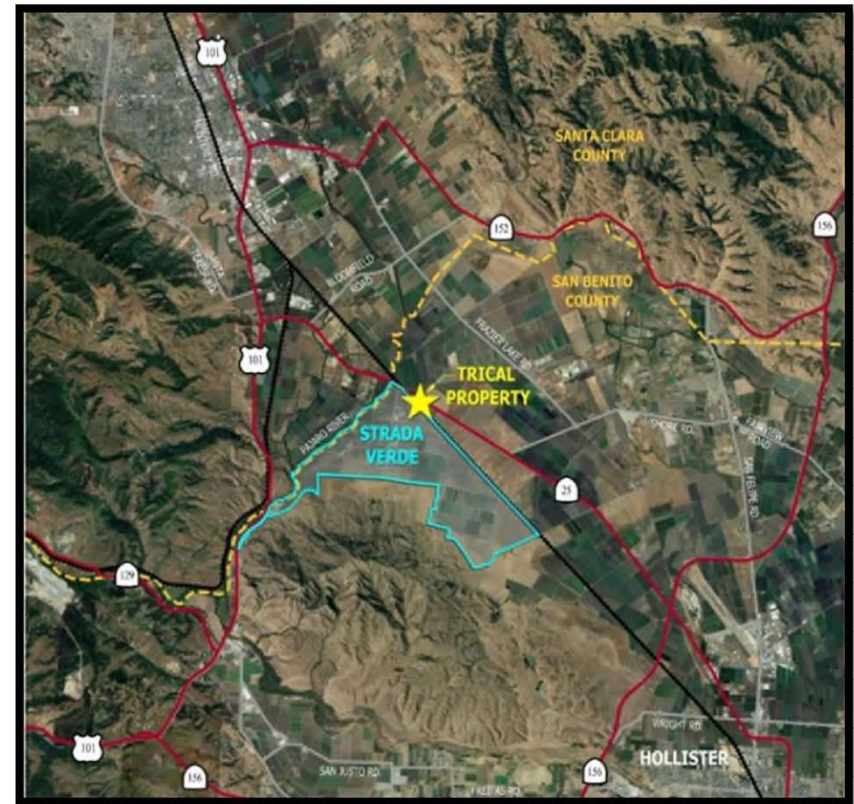
The site is desirable to the H.M.S. Company and Soil Chemicals Corporation because of its isolation from locations of human habitation and employment, its air movement characteristics and the existing railroad spur and buildings.

Developer's Hazard Problem

1. The Strada Verde project site is located right next to chemical plant
2. County General Plan requires hazard buffer
3. An appropriate hazard buffer to manage the chemical plant risks would block the project

County Counsel stated
Developer's goal:

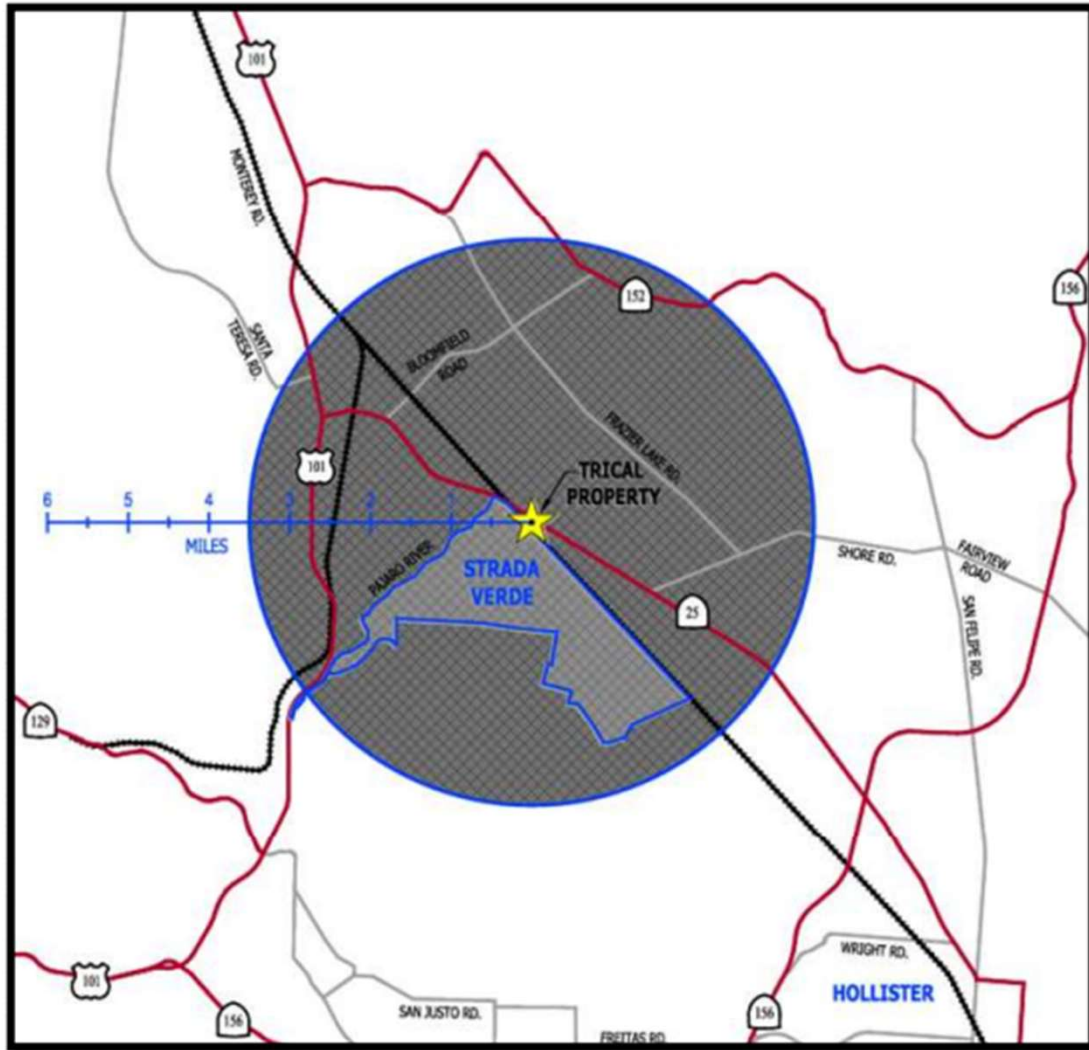
To eliminate hazard
buffer requirement



Efforts to avoid human safety buffer

1. Developer asked County to process Strada Verde application before analyzing appropriate hazard buffer around Trical to protect human life
2. County Resource Management Agency Director (Mr. Mavrogenes) followed General Plan H.S.-6.9 and County retained experts to analyze appropriate hazard buffer
- 3. *Prior to completion of Hazard Report***, developer changed course:
 - a) Pursued voter initiative to approve project at November 3, 2020, election – Measure N
 - b) Voter initiative drafted by developer did not state that developer was intending to eliminate the buffer requirement
 - c) *Instead***: developer crafted voter initiative in an attempt to ***surreptitiously delete*** buffer requirement without telling voters

County expert recommendation: 3.5 mile hazard buffer



County Experts concluded:

"[T]he Strada Verde project lies entirely within the **3.5-mile recommended minimum buffer zone.**"

"Given the findings of this report and degree of hazard at the Trical facility, **the land uses that would be allowed under the Strada Verde proposal are not appropriate within this minimum buffer zone and should not be approved.**"

EMC Group and Dr. Sahu Hazard Buffer Report (dated July 9, 2020) at p. 12.

Efforts to bury County's own expert report

1. July 9, 2020 – After seven months of in-depth analysis, County experts delivered and presented **final version** of Hazard Report to County staff:
 - a) County Department of Environmental Health
 - b) County Fire Marshall
 - c) Assistant County Counsel, Mr. Joel Ellinwood
2. Public records show County Counsel was “coordinating” with lawyers for developer about Hazard Report - weeks before its public release
3. E-mails show Hazard Report was **final** and therefore subject to release under the Public Records Act
4. Even though it was final, e-mails show County Counsel falsely labeled the Hazard Report an “**administrative draft**” to avoid releasing it to the public
5. A **whistleblower** felt compelled to release the Hazard Report and Supervisor Kosmicki responsibly informed the public of the danger that County Counsel was trying to cover up

Final Report - Not Administrative Draft

From: Endemann, Buck B. [mailto:Buck.Endemann@klgates.com]
Sent: Monday, July 13, 2020 10:29 PM
To: Joel Ellinwood; Darryl Wong
Cc: Michael Groves; Ray Espinosa; Harry Mavrogenes
Subject: RE: EMC Meetings and NDA Communications

Joel-

Sorry for the delay in responding to your email and voicemail. Just got a filing wrapped and am catching up on emails.

As we discussed this morning, I already sent you the final report in electronic format and, per your request, my office sent a complete copy of the report (with appendices) to the local CUPA. I pinged my office but the report is already out for delivery. It should arrive to Mr. Wong sometime tomorrow morning.

Per your request and my commitment to provide you with additional information, set forth below is additional detail on the process we discussed today, which is consistent with my considerable experience handling such matters:

1. The final report delivered to the County on Friday, July 10, 2020 is a public document and I am not aware of any applicable exemptions under the PRA. Gov. Code § 6254. The report is similar to an

This email confirms that a final Hazard Report was delivered to the County and that therefore it was a public document

From: Joel Ellinwood
Sent: Thursday, July 16, 2020 9:55 AM
To: 'jmillerlaw@gmail.com'
Subject: FW: EMC Meetings and NDA Communications
Importance: High

Mr. Miller:

Please confirm that you or your client have received the OFFSITE CONSEQUENCES ANALYSIS AND HAZARDS BUFFER REPORT FOR TRICAL, INC. from Buck Endemann. Below please find Mr. Endemann's analysis concluding that the report is a public document. Kindly confirm at your earliest opportunity that public disclosure of the report in the manner recommended by Mr. Endemann will not in any way violate the non-disclosure agreement between the County, EMC and Trical, Inc.

Please call me at (916) 214-2801 to discuss if necessary. Thank you.

Three days later, Attorney Ellinwood sent an email to Trical noting that the hazard report was a public document and invited feedback from Trical, given the security concerns

From: Joel Ellinwood <JEllinwood@cosb.us>
Sent: Thursday, July 16, 2020 6:10 PM
To: 'jmillerlaw@gmail.com' <jmillerlaw@gmail.com>
Cc: Endemann, Buck B. <Buck.Endemann@klgates.com>; Michael Groves <groves@emcplanning.com>; Harry Mavrogenes <HMavrogenes@cosb.us>; Ray Espinosa <REspinosa@cosb.us>; Barbara Thompson <BThompson@cosb.us>
Subject: Offsite Consequences Analysis Report

Mr. Miller:

Thank you again for speaking with me today. Please be advised that the above-referenced report is an administrative draft, that is not ready for public release. I am maintaining custody of all hard copies of the report and appendices. A copy of the executive summary and main report has been

Later that same day, at 6:10 pm, County Counsel called the final report an "administrative draft." The apparent theory was to call it a draft in an effort to avoid the requirements of the Public Records Act.

Botelho and County Counsel coordinate with developer

Supervisor Botelho coordinating with the developer's lawyers and County Counsel regarding the Floriani property

From: Anthony Botelho [mailto:bpfrut@garlic.com]
Sent: Monday, April 08, 2019 4:17 PM
To: Barbara Thompson; Jennifer.Hernandez@hklaw.com; David.Preiss@hklaw.com
Subject: RE: RCIS Exhibits - Floriani

From the looks of the map, we are excluding the Florini Property only. Should we also include the landfill area too?

Anthony

From: David.Preiss@hklaw.com
Sent: Thursday, July 09, 2020 3:24 PM
To: BThompson@cosb.us
Cc: SWelch@nmgovlaw.com; David.Preiss@hklaw.com
Subject: San Benito County

Hi Barbara

Thanks for making time later today to talk briefly with me and Sean Welch of Nielsen Merksamer.

To: David.Preiss@hklaw.com[David.Preiss@hklaw.com]; JEllinwood@cosb.us[JEllinwood@cosb.us]; SWelch@nmgovlaw.com[SWelch@nmgovlaw.com]
From: BThompson@cosb.us
Sent: Thur 8/27/2020 4:52:11 PM
Subject: FW: Documents to be Filed Challenging Measure N (Part 1)
[Verified Petition for Writ of Mandate.pdf](#)
[MPA in Support of Verified Petition.pdf](#)
[Civil Case Cover Sheet.pdf](#)
[Summons.pdf](#)

Wonder why County Counsel is so eager to talk about the "peer review"....

To: SWelch@nmgovlaw.com[SWelch@nmgovlaw.com]; dlazarus@nmgovlaw.com[dlazarus@nmgovlaw.com]
Cc: BThompson@cosb.us[BThompson@cosb.us]
From: JEllinwood@cosb.us
Sent: Fri 8/28/2020 2:01:54 AM
Subject: RE: Barragan v Gonzalez

Served. Copy to court clerk. Originals to be filed in the morning. If you see an issue, call me.

From: Sean Welch <SWelch@nmgovlaw.com>
Sent: Thursday, August 27, 2020 6:59 PM
To: Joel Ellinwood <JEllinwood@cosb.us>; David Lazarus <dlazarus@nmgovlaw.com>
Cc: Barbara Thompson <BThompson@cosb.us>
Subject: RE: Barragan v Gonzalez

Did you file these, Joel?

Sean

Sean P. Welch, Partner
NIELSEN MERKSAMER
PARRINELLO GROSS & LEONI LLP

From: BThompson@cosb.us
To: David.Preiss@hklaw.com
Subject: FW: [EXTERNAL]: RE: ABS Group - Toxic Modeling Support
Date: Friday, July 24, 2020 1:27:24 PM
Attachments: [ABSG Consulting Contract - OCA Report Peer Review 7-23-20 Signed.pdf](#)
[Attachment A ABSG Proposal No PS-19-570SA.pdf](#)
[Attachment C ABSG Legal Form-Rev 2 M&O General Terms and Conditions rev 7-23-20 ie CLEAN.pdf](#)

Please see attached. We need to talk further this afternoon...

From: David.Preiss@hklaw.com <David.Preiss@hklaw.com>
Sent: Wednesday, July 15, 2020 7:12 PM
To: Barbara Thompson <BThompson@cosb.us>; Joel Ellinwood <JEllinwood@cosb.us>
Cc: David.Preiss@hklaw.com; SWelch@nmgovlaw.com
Subject: RE: San Benito County

Hi Barbara and Joel.

Can we please move our call tomorrow morning to 11:00 a.m.

From: Sean Welch <swelch@nmgovlaw.com>
Sent: Thursday, July 09, 2020 6:20 PM
To: BThompson@cosb.us
Cc: Preiss, David L (SFO - X56914); Preiss, David L (SFO - X56914)
Subject: RE: San Benito County

Hi Barbara,

Nice to speak with you this evening. Please feel free to contact me at this email address or at the number below.

County Counsel holds multiple calls with developer on exact date hazard report given to County - July 9, 2020

County Counsel holds another call with developer's lawyer the very next week to talk about "San Benito County"

County Counsel spins story about whistleblower's release of Hazard Report

From: BThompson@cosb.us
Sent: Tuesday, July 21, 2020 8:43 AM
To: David.Preiss@hklaw.com; JEllinwood@cosb.us; SWelch@nmgovlaw.com
Subject: FW: Disturbing statement on FB

The info about the report has leaked to FB. I am just saying today that it is being peer reviewed and a final report should be finalized before the election.

From: Mia's Mail <miacasey@sbcglobal.net>
Date: Mon, Jul 20, 2020 at 8:45 PM
Subject: Disturbing statement on FB
To: <supervisors@cosb.us>, Mark Medina <medinadistrict1@gmail.com>, Anthony Botelho <bpfruit@garlic.com>

Hi everyone-

I just read this statement on fb by Frank Barragan. Any truth to this 'conspiracy' theory he's putting out there? Can it be addressed tomorrow in the meeting to squelch this rumor about Strada verde if untrue?

" County officials commissioned a study to determine how the chemical plant would impact nearby development. The study was received by county officials last week and they have failed to make report public.

The Strada Verde development project is located immediately adjacent to a toxic chemical plant (Tri-Cal). The current San Benito County General Plan requires a large buffer zone around this plant to protect human life in case of a chemical spill.

The study concludes that a 3.5 mile buffer zone is needed to protect humans in the case of a chemical spill.

County officials are currently trying to bury this report and taking actions to move the Strada Verde Initiative onto the ballot so voters can approve it without knowledge of the dangerous nature of the chemicals right next door. Any candidate or county official that supports the project may be part of the corruption of Strada Verde project."

The spin and coordination with developer are stunning –

- 1) The Hazard Report was already final
- 2) No peer review had been authorized at that time or any time thereafter by the Board of Supervisors
- 3) The County experts had yet to even present on the Hazard Report to the Board of Supervisors

Hired “peer review” consultant in failed attempt to justify smaller hazard buffer

After efforts to bury final report failed, County Counsel orchestrated efforts to smear County’s final Hazard Report:

- a) **Without any prior direction from Board of Supervisors**, Ray Espinosa, Supervisor Botelho, County Counsel pursued a so-called “peer review” of the hazard report - **before County experts were even allowed to present** their findings to the Board of Supervisors
- b) E-mail shows County Counsel Barbara Thompson **blocked** County Attorney Joel Ellinwood from setting a call between the authors of the hazard report and the new “peer-review” consultant, making up an excuse that **“each report needs to be independent”**
 - i. Yet County Counsel e-mails show subsequent “peer review” work was far from independent
- c) County Counsel wrote this to the “peer review” consultant about the upcoming August 4, 2020, presentation of the hazard report by EMC and Dr. Sahu to the Board of Supervisors:

We will **“try to get the presentation shortened,”** but **“don’t know how that will work out”**

County Counsel claims need for “independent” peer review

From: BThompson@cosb.us
To: JEllinwood@cosb.us; wleboeuf@absconsulting.com; gknight@absconsulting.com
Subject: Re: Trical OCA and Hazards Buffer
Date: Thursday, July 30, 2020 10:41:43 AM
Attachments: [image001.png](#)

Not necessary. Each report needs to be independent. ABS does not need to do this. But thank you for thinking about it.

----- Original Message -----

From: Joel Ellinwood <JEllinwood@cosb.us>
Date: Thu, July 30, 2020 9:05 AM -0700
To: wleboeuf@absconsulting.com, gknight@absconsulting.com
CC: Barbara Thompson <BThompson@cosb.us>
Subject: Trical OCA and Hazards Buffer

Checking in to see if you have comments, questions or concerns to share with the report authors for them to address at the August 4, 2020 Board of Supervisors meeting. Let us know if we need to have

County Counsel Barbara Thompson quickly blocked any discussions between the County’s existing experts and the new “peer review” consultant

Pay close attention to County Counsel’s words that “each report needs to be independent” - but her e-mails and coordination tell a very different story

In the lead up to the August 4 Board of Supervisors Meeting, County Attorney Ellinwood asked the “peer review” consultant whether they wanted to talk to EMC and Dr. Sahu

The hazard “report authors” are the County experts – EMC and Dr. Sahu

But no independence

County Counsel directs "peer review" consultant to work directly with purported Trical expert – Exponent

From: Paul Niday
Sent: Monday, August 24, 2020 10:51 AM
To: 'Barbara Thompson' <BThompson@cosb.us>; Ben Blanco <bblanco@tricalgroup.com>; William Leboeuf <wleboeuf@absconsulting.com>; Gregory Knight <gknight@absconsulting.com>; 'Subodh Medhekar' <smedhekar@exponent.com>
Cc: Joel Ellinwood <JEllinwood@cosb.us>
Subject: ABSG Consulting Inc. Peer Review/Exponent

Barbara, Joel and Ben,
Per our conversation Subodh of Exponent can discuss directly their reviews of the OCA report of the Trical facility. I have copied all parties so they can set up that call.
Regards
Paul

From: Barbara Thompson <BThompson@cosb.us>
Sent: Thursday, August 27, 2020 7:56 PM
To: Paul Niday <pniday@trical.com>; Ben Blanco <bblanco@tricalgroup.com>; William Leboeuf <wleboeuf@absconsulting.com>; Gregory Knight <gknight@absconsulting.com>; Subodh Medhekar <smedhekar@exponent.com>
Cc: Joel Ellinwood <JEllinwood@cosb.us>
Subject: RE: ABSG Consulting Inc. Peer Review/Exponent

I am fine with that. Joel are you OK with that too?

From: Paul Niday <pniday@trical.com>
Sent: Thursday, August 27, 2020 12:34 PM
To: Barbara Thompson <BThompson@cosb.us>; Ben Blanco <bblanco@tricalgroup.com>; William Leboeuf <wleboeuf@absconsulting.com>; Gregory Knight <gknight@absconsulting.com>; Subodh Medhekar <smedhekar@exponent.com>
Cc: Joel Ellinwood <JEllinwood@cosb.us>
Subject: RE: ABSG Consulting Inc. Peer Review/Exponent
Importance: High

Barbara and Joel,
Should I have Subodh of Exponent contact Gregory and William of ABSG directly?
Regards,
Paul

From: JEllinwood@cosb.us
To: BThompson@cosb.us; pniday@trical.com; bblanco@tricalgroup.com; wleboeuf@absconsulting.com; gknight@absconsulting.com; smedhekar@exponent.com
Subject: RE: ABSG Consulting Inc. Peer Review/Exponent
Date: Thursday, August 27, 2020 10:40:40 PM

Yes.

From: [Subodh Medhekar](mailto:Subodh.Medhekar)
To: [Gregory Knight](mailto:Gregory.Knight)
Cc: [Joel Ellinwood](mailto:Joel.Ellinwood); [Barbara Thompson](mailto:Barbara.Thompson)
Subject: RE: Chloropicrin PHAST Dipper Fit Data
Date: Wednesday, September 16, 2020 12:55:02 PM
Attachments: [Chloropicrin for PHAST.xlsx](#)

Greg,

As I input Chloropicrin chemical properties (and peer review your input values), I have noticed a discrepancy in your HVP property equation..

From: Gregory Knight <gknight@absconsulting.com>
Sent: Wednesday, September 9, 2020 12:19 PM
To: Subodh Medhekar <smedhekar@exponent.com>
Cc: Joel Ellinwood <JEllinwood@cosb.us>; Barbara Thompson <BThompson@cosb.us>
Subject: [EXTERNAL] Chloropicrin PHAST Dipper Fit Data

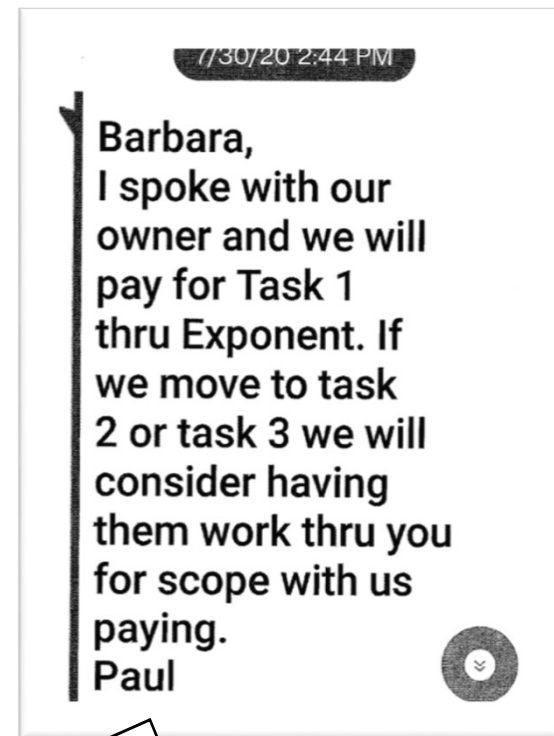
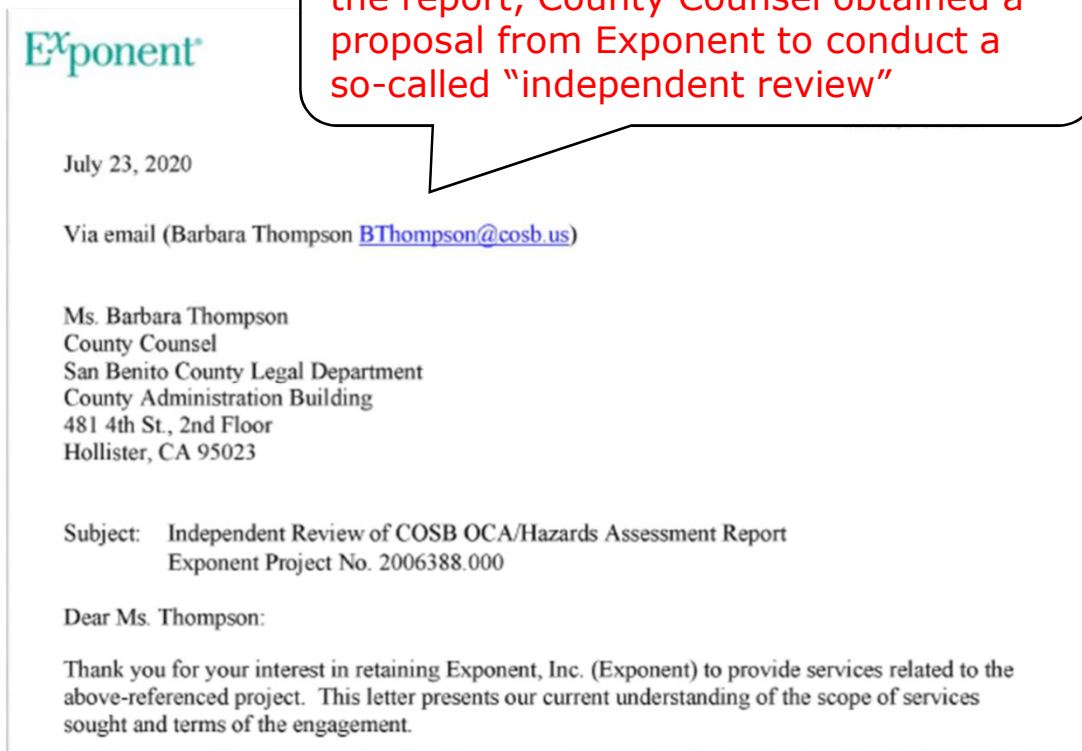
Please let me know if you find better data or disagree with these values.

From: [Gregory Knight](mailto:Gregory.Knight)
To: [Subodh Medhekar](mailto:Subodh.Medhekar)
Cc: [Joel Ellinwood](mailto:Joel.Ellinwood); [Barbara Thompson](mailto:Barbara.Thompson)
Subject: Re: [EXTERNAL]: RE: Chloropicrin PHAST Dipper Fit Data
Date: Wednesday, September 16, 2020 2:34:11 PM
Attachments: [Pentane Test Case for HVP Influence Export.psx](#)

You are correct on the error.

Another word about Exponent: chemical plant contemplated paying Exponent but let County Counsel run the show

Shortly after the whistleblower released the report, County Counsel obtained a proposal from Exponent to conduct a so-called "independent review"



A week later, County Counsel receives a text from Trical contemplating to pay for Tasks 2 and 3 (more than \$100K) but letting it appear as if the County retained Exponent - highly unusual

Efforts to hide the danger

1. ***Before the experts were even allowed to present the hazard report***, Supervisor Botelho made a public spectacle at the August 4, 2020, Board of Supervisors Meeting because he didn't like the hazard report's conclusion
2. Supervisor Botelho abruptly ended the August 4, 2020, presentation by EMC and Dr. Sahu (County experts) before they could finish
3. County Counsel claimed need for "independence" but then orchestrated the exact opposite:
 - a) Holding numerous meetings with the "peer review" consultant, developer, and Exponent
 - b) Searching for ways to undercut Hazard Report

County Counsel undermining County's own experts while promoting so-called "peer review"

From: JFillinwood@cosb.us
To: wleboeuf@absconsulting.com; gknight@absconsulting.com
Cc: REspinosa@cosb.us; BThompson@cosb.us
Subject: OCA Report Agenda for BOS meeting tomorrow
Date: Monday, August 03, 2020 3:40:21 PM
Attachments: [image001.png](#)
[Hearing PPT \(Aug. 4, 2020\) \(final\).pdf](#)
[SKM_C65820073114350.pdf](#)

Chris and Greg:

Here is the powerpoint I just received that EMC/Sahu prepared for their presentation and the agenda for tomorrow's meeting. The agenda has the zoom meeting login information. I will text you both when we are approaching the time for the presentation. We will probably try to get the presentation shortened, but don't know how that will work out.

We'll introduce you as monitoring the presentation and comments, and that you may be available to answer questions as to your review in process. You have my cell number to call if you have questions.

Clearly, County Counsel did not like County experts' conclusions

But County Counsel had no problem with her "peer review"

From: BThompson@cosb.us
To: gknight@absconsulting.com; JFillinwood@cosb.us; wleboeuf@absconsulting.com
Cc: REspinosa@cosb.us
Subject: RE: [EXTERNAL]: Trical OCA Report follow up
Date: Monday, September 14, 2020 1:36:52 PM
Attachments: [image001.png](#)

Take as much time as you need to get the points out that you want. 20-45 minutes would be an estimate only.

Barbara

County Counsel coordinates campaign to undercut Hazard Report

County Counsel wants "Applicant" - the developer - to join "peer review"!

County Counsel seeks "peer review" before hazard report is public

From: BThompson@cosb.us
To: wleboeuf@absconsulting.com; JEllinwood@cosb.us
Cc: REspinosa@cosb.us; Gknight@absconsulting.com
Subject: RE: [EXTERNAL]: ABSG Consulting Contract - OCA Report Peer Review 7-24-20 Signed.pdf
Date: Monday, July 27, 2020 10:17:45 AM
Attachments: [image001.png](#)

We can do a kick off today, but I want to have a larger meeting including the Applicant as well, and Trical. Let's discuss at the meeting..

Barbara

From: BThompson@cosb.us
To: smedhekar@exponent.com
Subject: RE: peer review Hazards study
Date: Monday, July 20, 2020 3:41:22 PM

Paul Niday <pniday@trical.com>; Jonathan H. Miller <jhmiller@tricalgroup.com>; Ben Blanco <bblanco@tricalgroup.com>; Richard Storkan <rstorkan@trical.com>

From: Paul Niday
Location: 866-528-2256 code 309192#
Importance: High
Subject: Discussion of Draft Study
Start Date/Time: Thur 7/23/2020 6:00:00 PM
End Date/Time: Thur 7/23/2020 7:30:00 PM

From: Joel Ellinwood
Location: Webex/Dial in below
Importance: Normal
Subject: Accepted: FW: CALL: Paul Niday, Barbara Thompson
Start Date/Time: Thur 9/3/2020 9:30:00 PM
End Date/Time: Thur 9/3/2020 10:00:00 PM

From: [Paul Niday](mailto:Paul.Niday@trical.com)
To: [Barbara Thompson](mailto:Barbara.Thompson@trical.com); [Ben Blanco](mailto:Ben.Blanco@trical.com); [William Leboeuf](mailto:William.Leboeuf@trical.com); [Gregory Knight](mailto:Gregory.Knight@trical.com); [Subodh Medhekar](mailto:Subodh.Medhekar@trical.com)
Cc: [Joel Ellinwood](mailto:Joel.Ellinwood@trical.com)
Subject: ABSG Consulting Inc. Peer Review/Exponent
Date: Monday, August 24, 2020 10:51:18 AM

Barbara, Joel and Ben,
Per our conversation Subodh of Exponent can discuss directly their reviews of the OCA report of the Trical facility. I have copied all parties so they can set up that call.

Regards
Paul

County Counsel working with Trical on "preliminary findings"

Another meeting invite from Trical's lawyer

From: [Subodh Medhekar](mailto:Subodh.Medhekar@trical.com)
To: [William Leboeuf](mailto:William.Leboeuf@trical.com); [Gregory Knight](mailto:Gregory.Knight@trical.com)
Cc: [Joel Ellinwood](mailto:Joel.Ellinwood@trical.com); [Barbara Thompson](mailto:Barbara.Thompson@trical.com); [Paul Niday](mailto:Paul.Niday@trical.com); [Ben Blanco](mailto:Ben.Blanco@trical.com)
Subject: RE: ABSG Consulting Inc. Peer Review/Exponent
Date: Friday, August 28, 2020 8:59:06 AM

Gregory & William,

I am contacting you to setup a WebEx call.

The purpose of this call would be to discuss the TriCal OCA report and review the preliminary findings.

From: Ben Blanco
Location: WebEx/Dial in below
Importance: Normal
Subject: CALL: San Benito County, TriCal, Exponent, ABSG Consulting
Start Date/Time: Wed 9/9/2020 6:00:00 PM
End Date/Time: Wed 9/9/2020 7:00:00 PM

County Attorney Ellinwood confirms 2.7 Mile buffer based on one chemical

From: JEllinwood@cosb.us
To: BThompson@cosb.us; REspinosa@cosb.us
Cc: gknight@absconsulting.com; wleboeuf@absconsulting.com
Subject: TriCal OCA Review - ABSG Consulting review status
Date: Friday, August 07, 2020 9:54:09 AM
Attachments: [image001.png](#)
[Buffer Distances from Trical 1 mi 2 mi 3 mi.jpg](#)

I had a conference call with Greg Knight of ABS. He is running the same set of assumptions used by EMC with their software to validate their results. His preliminary results show a 2.7 mi radius instead of 3.5 mi – not a significant difference as far as the Strada Verde project is concerned (see attached). He will also run some with a range of variables of temperature and wind speed with higher frequency (based on weather data), and with lower volume releases. He should have results ready to discuss next Friday. We scheduled a call for 11 for him to present them to us before drafting a report reflecting their results.

Greg, please let me know if I misstated anything, or missed something in my recap.

Greg said that he is not familiar with the ALOHA software being used by Trinity Consultants. Perhaps Chris or someone else from ABS could give us a comparison of the differences between ALOHA and their modeling software. Much was made by Dr. Sahu that ALOHA is open source and other software is proprietary. Please address that issue.

Attorney Ellinwood acknowledges that there is “not a significant difference” between the Hazard Report and the purported “peer review.”

The “peer review” consultant did not disagree with Attorney Ellinwood’s email – no responsive email was released by the County.

Attorney Ellinwood notes that the “peer review” consultant is not familiar with ALOHA, the widely-used, government-approved model for a hazard analysis.

Few hours later... No response from “peer review” consultant, but Barbara Thompson jumps in

From: Barbara Thompson <BThompson@cosb.us>
Sent: Friday, August 7, 2020 5:15 PM
To: Joel Ellinwood <JEllinwood@cosb.us>; Ray Espinosa <REspinosa@cosb.us>; Gregory Knight <gknight@absconsulting.com>; William Leboeuf <wleboeuf@absconsulting.com>
Subject: [EXTERNAL]: RE: TriCal OCA Review - ABSG Consulting review status

Also we should address exposure time to be a reasonable time period to allow evacuation. I don't know if that is 10 minutes, 15 minutes or 20 minutes, or some other number.

I also note that the site plan has already almost a one mile buffer before most of the development occurs (Joel did the picture of the site plan with a one mile circle around trical.) I can send it to you if you want. I could be wrong, but I believe that there are 1609.344 meters in a mile. If the wind travels at 1m/second, wouldn't that be a 26 minute buffer before the exposure even reached the higher density parts of the project?

The “peer review” consultant had nothing to add to Attorney Ellinwood’s email reporting the 2.7 mile buffer finding

But Attorney Thompson responded searching for a different result

From: [Gregory Knight](#)
To: [Barbara Thompson](#); [Joel Ellinwood](#); [Ray Espinosa](#); [William Leboeuf](#)
Subject: Re: [EXTERNAL]: RE: TriCal OCA Review - ABSG Consulting review status
Date: Friday, August 07, 2020 3:30:03 PM
Attachments: [image001.png](#)
[image.png](#)

I will do 10 and 30 min AEGL values also. But the 10 and 30 min concentrations are not much higher than the 60 min concentration (2 ppm vs 1.4 ppm) so we won't see a lot of benefit here.

Interim AEGLs for Chloropicrin (76-06-2)

Exposure Period	AEGL-1	AEGL-2	AEGL-3
10 minutes	0.05 ppm	0.15 ppm	2 ppm
30 minutes	0.05 ppm	0.15 ppm	2 ppm
60 minutes	0.05 ppm	0.15 ppm	1.4 ppm
4 hours	0.05 ppm	0.15 ppm	0.79 ppm
8 hours	0.05 ppm	0.15 ppm	0.58 ppm

The “peer review” consultant gently explains that changing the parameters as County Counsel suggested would not result in “a lot of benefit”

You are correct on the wind speed delaying exposure.

County Counsel's Problem

1. County Counsel was unable to coverup the Hazard Report that carefully detailed multiple toxic chemicals and a range of reasonable release scenarios recommending a minimum 3.5 mile buffer
2. The "peer review" consultant initially found Hazard Report **correctly** concluded the chemical plant was very dangerous
3. "Peer review" consultant's analysis of **just one** toxic chemical (i.e., chloropicrin) supported a 2.7 mile buffer
4. County Attorney Ellinwood confirmed the danger and the 2.7 mile hazard zone for just that one chemical

So what does County Counsel do?

Answer: Look for ways to justify a smaller hazard buffer around chemical plant

Flimsy arguments cannot hide danger

1. Ignores Phosgene.

- a) County Counsel uncritically supports “peer review” consultant making unsupported claim that obvious fire scenario that would create phosgene release was somehow not “credible”

2. Risk Management Plan Blocks Effort to Downplay Methyl Bromide Danger.

- a) County Counsel ignores Trical’s own Risk Management Plan **on file with County** and improperly assumes “rain out” eliminates methyl bromide danger
- b) The contradiction:** Since 2008, Trical’s own Risk Management Plan has identified a threat zone that **extends beyond 6 miles**

3. Chloropicrin.

- a) The “peer review” consultant initially identified a 2.7 mile danger for this toxic chemical alone and retreating to **junk science** did not help....

Don't buy junk science

1. **Only Trivial Leaks.** Focus improperly shifts to trivial and minor leaks when Trical itself has acknowledged the risks of major releases resulting from terrorism, sabotage and more
2. **Non-existent mitigation.** Even though no mitigation measures were available to model, County Counsel directed the "peer review" consultant to model a "**hypothetical reduction**" and present **unsupported and misleading modeling** to Board of Supervisors that downplayed the danger
3. **Not so PHAST.** Promoting improper use of software (PHAST) not sanctioned by government agencies and suggesting the government-approved ALOHA model should not be used. ALOHA is the standard model for emergency responders.
4. **Improper modeling.** Supporting Exponent's narrative that using an unstable atmosphere (B-stability) to drive down the hazard consequences was proper when considering reasonable worst-case scenarios
 - a) **Stable Atmosphere (F-Stability) Is Proper.** Dr. Andrew Gray, a highly credentialed expert and former government official, submitted a letter to Board of Supervisors making clear that only using F-stability for atmospheric conditions was proper and using an unstable, daytime atmospheric class (B) as proposed by Exponent was "**inconsistent with standard modeling for reasonable worst-case analyses**"
 - b) County withheld this expert letter from the public and only produced it in response to litigation

Supervisor Botelho: willful blindness as to major chemical releases

1. Before listening to a word from the County's own experts during the August 4, 2020, Board Meeting:
 - a) Botelho berated County experts, claiming "the Hazard Report is not a report that is based on science and actual conditions of Trical"
 - b) Botelho declared as if he were a scientific authority on the subject: "there is little to no chance" of a **major** release from stationary sources at Trical
 - c) Botelho announced without any Board review, discussion or approval that "the County is pursuing in peer review as well as Trical is working on its report for a true assessment"
2. The facts show otherwise:
 - a) Trical acknowledges major chemical release risks
 - b) County e-mails confirm major chemical release risks
 - c) February 18, 2021, Court Judgment confirms major chemical release risks

Trical document shows serious risks

Clearly, Trical has long recognized that major chemical releases could occur in a variety of ways

Explosions

February 8, 2016

Table C-1-Equipment HAZOP Analysis

Vandalism and sabotage!

Big rupture of tank car

Seismic event

Major release of methyl bromide to environment

Fires

Node: Rail Tank Cars (Methyl Bromide) to Cylinder filling (P&ID No. 2)

Parameter/ Guide Word	Item	Deviation	Cause	Consequences
Flow/ Low	1. Rail tank car	Excess flow valve seats	a. Malfunction b. Operator error	No safety consequences
Flow/ Excess (to environment)	2. Rail tank car valve	Vapor/liquid leak	a. Wear/aging b. <u>Vandalism/sabotage</u> c. Mechanical impact	<u>Release of MeBr to environment</u>
Flow/ Excess (to environment)	3. Rail tank car	Liquid/vapor leak	<u>Vandalism/Sabotage</u>	<u>Puncture of rail car tank, release of MeBr to environment</u>
Flow/ Excess (to environment)	4. Rail car flex hose	Leak/ <u>Rupture</u>	a. <u>Seismic event</u> b. <u>Fire/explosion</u> c. <u>Sabotage</u> d. Mechanical impact e. Wear/aging	<u>Release of MeBr to environment</u>

To hide Hazard Report, County Counsel admits danger

The e-mail date is noteworthy: The very next day, County Counsel was downplaying the risk during the “peer review” consultant’s presentation to the Board of Supervisors and the public

From: [Joel Ellinwood](#)
To: [Jonathan Weissglass](#)
Cc: [Barbara Thompson](#); [Reed Gallogly](#); [Ray Espinosa](#); [Supervisor Anthony Botelho](#); [Supervisor Peter Hernandez](#); [Supervisor Mark Medina](#); [Jaime De La Cruz \(E-mail\)](#)
Subject: RE: Public Records Act Lawsuit
Date: Monday, September 21, 2020 3:44:05 PM
Attachments: [8-21-20_JF_email_to_F_Barraagan_Re_Strada_Verde_Report.pdf](#)
[image001.png](#)
[Portfolio_San_Benito_County_Correspondence_with_Strada_Verde_Attorneys_and_Agents_6-15-20_-_7-15-20.pdf](#)

Mr. Weissglass:

We are in receipt of your email attaching an unfiled copy of the Petition/Complaint in the above-referenced matter. You should be aware of certain facts bearing upon the factual validity of some of the primary allegations made therein.

The County of San Benito has in its possession the appendices to the Offsite Hazard Consequences Report. At least portions of the full report and appendices are subject to a Non-Disclosure Agreement (NDA) between the County and Trical, Inc., as containing confidential and proprietary business and sensitive security information. The public interest in that information remaining confidential outweighs the public interest in disclosure in that general public dissemination of copies of that information may increase the security risks for the facility from threats of vandalism or terrorism posing a severe risk to the general public health and safety, and so is exempt from disclosure pursuant to Government Code section 6255 (a). Joel Ellinwood made that determination in his capacity as the Assistant County Counsel.

When trying to hide the Hazard Report, Attorney Ellinwood had no difficulty whatsoever identifying the “severe risk” from vandalism and terrorism and the threat posed to the “general public and safety” by the hazardous chemicals at Trical

Judgment: final nail in the coffin

February 18, 2021, Judgment shows serious major chemical release risks

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BENITO

FRANK BARRAGAN,
Petitioner and Plaintiff,

v.

COUNTY OF SAN BENITO,
Respondent and Defendant.

CASE NO. CU-20-00121
[PROPOSED] JUDGMENT

- County Counsel's failure to follow the law resulted in a \$35K penalty – wasting scarce public resources while misleading the !

The County withheld Appendices 1 and 3 to the Hazards Buffer Report on the ground that they contain sensitive security information that if disclosed could endanger the Trical facility to threats of sabotage or terrorism causing a release of hazardous chemicals jeopardizing the public health, safety and welfare and may increase the security risks for the facility from threats of vandalism or terrorism posing a severe risk to the general public health and safety.

In accordance with the parties' separately filed stipulation, the Court orders and decrees as follows:

- The Court enters Judgment in favor of Plaintiff/Petitioner and against Defendant/Respondent San Benito County.
- Defendant/Respondent San Benito County shall pay Plaintiff/Petitioner \$35,000 in settlement of Plaintiff/Petitioner's potential claim for an award of attorney's fees and costs in this case, Case No CU-20-00121, as well as Case No. CU-20-00165.

IT IS SO ORDERED.

Dated: FEB 18 2021, 2021

J. Omar Rodriguez

Judge of the San Benito Superior Court

No Mitigation Exists

- As explained by Dr. Sahu at page 11 of the Hazard Report:

These examples and the other modeling results described in this report show that multiple and distinct reasonable worst-case scenarios would culminate in extremely dangerous and lethal levels of toxic chemicals and their by-products surrounding the Trical facility. Like most industrial facilities, Trical is required to have certain mitigation measures and the capability to address small spills of the chemicals it handles. However, a large unexpected chemical release would easily overwhelm Trical's mitigation and emergency response capabilities. This inability to handle large, unexpected release scenarios is not unique to Trical and there are numerous examples of even the most responsible industrial facilities easily becoming overwhelmed by large, unexpected chemical releases, fires and explosions.

Shameless Mitigation Modeling

From: BThompson@cosb.us
To: gknight@absconsulting.com
Cc: JFillinwood@cosb.us; REspinoza@cosb.us
Subject: RE: rev 1
Date: Thursday, September 17, 2020 4:46:51 PM

No mitigation!

I just spoke with Ben Blanco from Trical. He indicated that they do not have mitigation measures that could be modeled yet. But they hopefully will by 10/6.

I could say that the County is waiting for mitigation measures to be submitted by Trical that could be imposed.

Can you model a hypothetical 50% and 75% reduction, indicating that once those mitigation measures are presented, further modeling on those measures would be possible to come up with a buffer which reflects those new mitigation measures?

Barbara

County Counsel directed "peer review" consultant to model bogus scenarios

Yet County Counsel still offered that she "could say that the County is waiting for mitigation measures to be submitted by Trical."

From: [Gregory Knight](mailto:Gregory.Knight@absconsulting.com)
To: [Barbara Thomson](mailto:Barbara.Thomson@absconsulting.com)
Cc: [Joel Fillinwood](mailto:Joel.Fillinwood@absconsulting.com); [Ray Espinoza](mailto:Ray.Espinoza@absconsulting.com)
Subject: Re: [EXTERNAL]: RE: rev 1
Date: Friday, September 18, 2020 6:37:19 AM
Attachments: [image.png](#)

Foam? Water? Clearly, they missed Dr. Sahu's class on this topic (see slide 29)

I added the below.

Mitigation

- Mitigation of the release may include reducing the pool evaporation using foam or water
- Preliminary modeling assuming mitigating that reduces the evaporation rate by 50% and 75% was performed
 - Night weather case; confined chloropicrin leak
 - No mitigation = 1.6 mi
 - 50% mitigation = 1.2 mi
 - 75% mitigation = 0.8 mi

The "peer review" consultant complied

It gets worse – “peer review” consultant “not sure” about its own “qualifications”

County Counsel is hopelessly looking for mitigation....

From: BThompson@cosb.us
To: gknight@absconsulting.com
Subject: additional scope of work
Date: Thursday, August 20, 2020 4:58:28 PM

Can we have a separate scope of work that would look at the mitigation measures that would/should be imposed on Trical to reduce the risk of a hazardous situation? What would that cost, and can you draft up a separate contract for that, or do you want to wrap it into this analysis, through an amendment?

“Peer review” consultant “not sure” of his firm’s “qualifications in this [mitigation] area”

From: [William Leboeuf](mailto:William.Leboeuf)
To: [Barbara Thompson](mailto:Barbara.Thompson)
Subject: Re: [EXTERNAL]: RE: ABS Group - Toxic Modeling Support
Date: Friday, August 21, 2020 11:02:38 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Hi Barbara,

I am tied up on a call For the next hour. I have put in a request to one of our experts in another office to ask about capabilities related to mitigation recommendations.. I'm not sure of our qualifications in this area. Waiting to hear back from them. Greg explained what is needed. I hope to have an answer shortly and I'll share as soon as I find out.

NEVERTHELESS, County Counsel asked “peer review” consultant to model “hypothetical” mitigations and present them to the Board of Supervisors and the public!

Speaking of qualifications...remember ALOHA?

On September 22, 2020, the “peer review” consultant was speaking as a **real authority** on ALOHA during his presentation to the Board of Supervisors and the public – suggesting PHAST was better than ALOHA in ways material to this analysis.

His PPT slide is below.

- **ABS used PHAST software and compared to EMC Aloha distances**
 - Both use similar dispersion models
 - Each one may be more advanced than the other in certain areas (i.e. PHAST includes a droplet rainout model)
- **EMC parameters were used (weather, wind, etc.)**
- **Task goal was to determine if similar results would be obtained for similar inputs (evaluate software)**
- **Differences were expected from**
 - Chemical representation in each software
 - Leak discharge and rainout submodels
 - Dispersion models

From: JEllinwood@cosb.us
To: BThompson@cosb.us; REspinosa@cosb.us
Cc: gknight@absconsulting.com; wleboeuf@absconsulting.com
Subject: TriCal OCA Review - ABSG Consulting review status
Date: Friday, August 07, 2020 9:54:09 AM
Attachments: [image001.png](#)
[Buffer Distances from Trical 1 mi 2 mi 3 mi.jpg](#)

I had a conference call with Greg Knight of ABS. He is running the same set of assumptions used by EMC with their software to validate their results. His preliminary results show a 2.7 mi radius instead of 3.5 mi – not a significant difference as far as the Strada Verde project is concerned (see attached). He will also run some with a range of variables of temperature and wind speed with higher frequency (based on weather data), and with lower volume releases. He should have results ready to discuss next Friday. We scheduled a call for 11 for him to present them to us before drafting a report reflecting their results.

Greg, please let me know if I misstated anything, or missed something in my recap.

Greg said that he is not familiar with the ALOHA software being used by Trinity Consultants. Perhaps Chris or someone else from ABS could give us a comparison of the differences between ALOHA and their modeling software. Much was made by Dr. Sahu that ALOHA is open source and other software is proprietary. Please address that issue.

But the “peer review” consultant neglected to mention:

“He is not familiar with the ALOHA software”

And yes, those are his words.

County Counsel and Chief Administrative Officer (CAO) hijack the process

- 1. *RMA Director Oversight Role.*** Resource Management Agency (RMA) Director county staff executive was responsible for processing developer's land use application for Strada Verde and supervising all consultants, including authors of Hazard Report
- 2. *Excluded RMA.*** Yet after delivery of final hazard report (July 9, 2020), County Counsel and CAO Ray Espinosa ***excluded*** RMA Director from that oversight role and acted behind the scenes to further own agenda
- 3. *Changing Conclusions.*** But after learning of the 2.7 mile result, County Counsel—coordinating with (i) developer, (ii) “peer review” consultant, (iii) Trical, and (iv) Exponent—guided peer-review process that resulted in smaller hazard zones

But the RMA Director ultimately discovered the ugly truth....

Excluding the RMA Director

From: Joel Ellinwood <JEllinwood@cosb.us>
Sent: Thursday, August 6, 2020 7:52 PM
To: William Leboeuf <wleboeuf@absconsulting.com>; Gregory Knight <gknight@absconsulting.com>
Cc: Barbara Thompson <BThompson@cosb.us>; Ray Espinosa <REspinosa@cosb.us>
Subject: [EXTERNAL]: Trical OCA Report follow up

Chris and Greg:

Are you available for a telephone conference call tomorrow? Any time except 11-12 PDT and before 3 pm PDT.

From: BThompson@cosb.us
To: gknight@absconsulting.com; JEllinwood@cosb.us; wleboeuf@absconsulting.com
Cc: REspinosa@cosb.us
Subject: RE: [EXTERNAL]: Trical OCA Report follow up
Date: Monday, September 14, 2020 1:36:52 PM
Attachments: [image001.png](#)

Take as much time as you need to get the points out that you want. 20-45 minutes would be an estimate only.

Barbara

From: Barbara Thompson <BThompson@cosb.us>
Sent: Friday, September 11, 2020 4:31 PM
To: Gregory Knight <gknight@absconsulting.com>; Joel Ellinwood <JEllinwood@cosb.us>; William Leboeuf <wleboeuf@absconsulting.com>
Cc: Ray Espinosa <REspinosa@cosb.us>
Subject: RE: [EXTERNAL]: Trical OCA Report follow up

I know it is a quicker timeline that discussed, but Ray wanted me to see if you could present a presentation with your conclusions, not the final written report, on the BOS meeting of 9/22. That way, you wouldn't have to finalize the presentation until about 9/21.

From: BThompson@cosb.us
To: gknight@absconsulting.com; JEllinwood@cosb.us; wleboeuf@absconsulting.com
Cc: REspinosa@cosb.us
Subject: RE: [EXTERNAL]: Trical OCA Report follow up
Date: Friday, September 11, 2020 3:00:31 PM
Attachments: [image001.png](#)

Thank you. We appreciate it. As we get closer to that date, let's set up a time to discuss further the nature of the presentation and what your final findings will be...

Can you also forward the preliminary power point that you had, so I have it for my records?

From: BThompson@cosb.us
To: gknight@absconsulting.com; JEllinwood@cosb.us; REspinosa@cosb.us; wleboeuf@absconsulting.com
Subject: RE: [EXTERNAL]: Trical OCA Report follow up
Date: Tuesday, September 15, 2020 2:03:28 PM
Attachments: [image001.png](#)

Please share the power point only with this office. It will not be in the agenda or disseminated before the meeting, unless we decide otherwise later this week.

Of course, the RMA Director is not included in any of this correspondence on a topic that is squarely his responsibility

The Smoking Gun

From: Harry Mavrogenes <HMavrogenes@cosb.us>

Sent: Wednesday, September 16, 2020 10:29 PM

To: Barbara Thompson <BThompson@cosb.us>

Cc: Ray Espinosa <REspinosa@cosb.us>

Subject: Hazard Study update

Barbara:

On Monday, I asked you about the next steps on the Hazard study. Of course, I did not hear back from you. So today, I called Greg Knight at ABSG and asked him when we were having the joint follow-up meeting with Ron Sahu and the County. Greg said that he was asked by you to prepare a presentation for the September 22 Board meeting! I told Greg that I was surprised ; we don't even have this report yet. Greg then told me that, per your direction there is no written report, they will not prepare a written report for the meeting and there won't be a written report from his firm until after the Board presentation. I also understand that In several conversations with Ron Sahu, Greg stated that he saw no reason to change the conclusion Greg presented to all of us that the hazard zone extends to at least 2.7 miles. I discovered today that he may be changing his conclusions and that he now is planning on eliminating his prior analysis regarding chloropicrin and other catastrophic events. He will then change his conclusion to suggest to the Board that the hazardous zone radius is only 1.5 to 2 miles.

I am surprised that you were orchestrating this behind my back. In addition, I learned from Joel yesterday that Trical is doing its own study and may be presenting it on Tuesday as well. This is a project that the RMA Department is responsible for, not County lawyers. Your actions raise serious questions. I welcome a thorough and complete analysis of the hazards issue; this is a very important Planning issue for the County. I have been around a long time and it is obvious that the County has been well served by Ron Sahu. What is equally clear is that there is a search for a different conclusion and it looks like we are trying to bury Ron Sahu's report.

I don't say this lightly but what I am seeing is morally wrong. This is serious and we all have an obligation to protect the health and safety of our residents. In the lawsuit the county just lost, the judge ruled the ballot question was misleading and biased, in a pattern exactly parallel to this. This needs to stop.

Morally Wrong

- a) RMA Director discovered County Counsel was improperly directing the “peer review” consultant to change conclusion to show a smaller buffer zone was sufficient to protect against hazards at Trical

- b) RMA Director confronted County Counsel for hijacking the process:
 - a) County Counsel neither qualified to evaluate nor responsible for managing hazard analysis
 - b) Frustrating public process by telling peer-review consultant NOT to prepare written report
 - c) Delayed public dissemination of hazard report in lead up to election

- c) RMA Director wrote: “***I don’t say this lightly but what I am seeing is morally wrong.***”

Facts Don't Lie

From: Harry Mavrogenes <HMavrogenes@cosb.us>
Sent: Wednesday, September 16, 2020 10:29 PM
To: Barbara Thompson <BThompson@cosb.us>
Cc: Ray Espinosa <REspinosa@cosb.us>
Subject: Hazard Study update

Before Harry Mavrogenes, the RMA Director, passed away on September 20, 2020, due to a heart attack, he reported to CAO Ray Espinosa who was working behind the scenes with County Counsel

Barbara:

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hazardous zone radius is only 1.5 to 2 miles.

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Cold Hard Facts

From: Harry Mavrogenes <HMavrogenes@cosb.us>
Sent: Wednesday, September 16, 2020 10:29 PM
To: Barbara Thompson <BThompson@cosb.us>
Cc: Ray Espinosa <REspinosa@cosb.us>
Subject: Hazard Study update

Shocking process to witness

Barbara:

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Damning Evidence

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Sent: Wednesday, September 16, 2020 10:29 PM
To: Barbara Thompson <BThompson@cosb.us>
Cc: Ray Espinosa <REspinosa@cosb.us>
Subject: Hazard Study update

County Counsel Barbara Thompson and CAO Ray Espinosa excluded RMA Director from the process so they could hide direction to "peer review" consultant and bury the Hazard Report

Barbara:

On Monday, I asked you about the next steps on the Hazard study. Of course, I did not hear back from you. So today, I called Greg Knight at ABSG and asked him when we were having the joint follow-up meeting with Ron Sahu and the County. Greg said that he was asked by you to prepare a presentation for the September 22 Board meeting! I told Greg that I was surprised ; we don't even have this report yet. Greg then told me that, per your direction there is no written report, they will not prepare a written report for the meeting and there won't be a written report from his firm until after the Board presentation. I also understand that In several conversations with Ron Sahu, Greg stated that he saw no reason to change the conclusion Greg presented to all of us that the hazard zone extends to at least 2.7 miles. I discovered today that he may be changing his conclusions and that he now is planning on eliminating his prior analysis regarding chloropicrin and other catastrophic events. He will then change his conclusion to suggest to the Board that the hazardous zone radius is only 1.5 to 2 miles.

I am surprised that you were orchestrating this behind my back. In addition, I learned from Joel yesterday that Trical is doing its own study and may be presenting it on Tuesday as well. This is a project that the RMA Department is responsible for, not County lawyers. Your actions raise serious questions. I welcome a thorough and complete analysis of the hazards issue; this is a very important Planning issue for the County. I have been around a long time and it is obvious that the County has been well served by Ron Sahu. What is equally clear is that there is a search for a different conclusion and it looks like we are trying to bury Ron Sahu's report.

I don't say this lightly but what I am seeing is morally wrong. This is serious and we all have an obligation to protect the health and safety of our residents. In the lawsuit the county just lost, the judge ruled the ballot question was misleading and biased, in a pattern exactly parallel to this. This needs to stop.

The Ugly Truth

From: Harry Mavrogenes <HMavrogenes@cosb.us>
Sent: Wednesday, September 16, 2020 10:29 PM
To: Barbara Thompson <BThompson@cosb.us>
Cc: Ray Espinosa <REspinosa@cosb.us>
Subject: Hazard Study update

After being at the County for less than 15 months, the RMA Director was rudely awakened to learn County leadership had no moral compass

Barbara:

On Monday, I asked you about the next steps on the Hazard study. Of course, I did not hear back from you. So today, I called Greg Knight at ABSG and asked him when we were having the joint follow-up meeting with Ron Sahu and the County. Greg said that he was asked by you to prepare a presentation for the September 22 Board meeting! I told Greg that I was surprised ; we don't even have this report yet. Greg then told me that, per your direction there is no written report, they will not prepare a written report for the meeting and there won't be a written report from his firm until after the Board presentation. I also understand that In several conversations with Ron Sahu, Greg stated that he saw no reason to change the conclusion Greg presented to all of us that the hazard zone extends to at least 2.7 miles. I discovered today that he may be changing his conclusions and that he now is planning on eliminating his prior analysis regarding chloropicrin and other catastrophic events. He will then change his conclusion to suggest to the Board that the hazardous zone radius is only 1.5 to 2 miles.

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I don't say this lightly but what I am seeing is morally wrong. This is serious and we all have an obligation to protect the health and safety of our residents. In the lawsuit the county just lost, the judge ruled the ballot question was misleading and biased, in a pattern exactly parallel to this. This needs to stop.

Unfortunately, there is more

The deception and misconduct did not end with the Hazard Report:

It extended to the Elections Code and the Public Records Act relative to Measure N and the Strada Verde Project.

Violating the law: County Counsel improperly promotes Strada Verde project

1. Law required County Counsel to draft “impartial analysis” and neutral ballot question for Measure N
 - a) But County Counsel did just the opposite – Superior Court ruled County Counsel’s ballot question violated Elections Code
 - b) *Rare for any County or City to lose Election Code lawsuit unless conduct is truly egregious***
 - c) Measure N ballot question revised:
 - i. *No Innovation.*** Word “Innovation” eliminated from ballot question - nothing innovative about Strada Verde.
 - ii. *Re-Zoning.*** Added language to make clear Measure N would re-zone agricultural lands.
2. County Counsel hid public records regarding Strada Verde for months
 - a) Lost two separate lawsuits
 - b) Judgments entered against County
 - c) Ordered to pay legal fees
 - d) Withheld certain records until after election

Court strikes down biased ballot question

Working closely with developer, County Counsel's bias was readily apparent

7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN BENITO
10
11 FRANK BARRAGAN,
12 Petitioner,
13 v.
14 JOE PAUL GONZALEZ IN HIS OFFICIAL
15 CAPACITY AS SAN BENITO COUNTY
16 CLERK, REGISTRAR OF VOTERS, AND
17 COUNTY ELECTIONS OFFICIAL,
18 Respondent.
19
20 SAN BENITO COUNTY, SAN BENITO
21 COUNTY BOARD OF SUPERVISORS, and
22 BARBARA THOMPSON IN HER
OFFICIAL CAPACITY AS COUNTY
COUNSEL FOR THE COUNTY OF SAN
BENITO,
Real Parties in Interest.

CASE NO. CU-20-00111
~~PROPOSED~~ AMENDED JUDGMENT

Having fully considered the matter, the Court finds and determines that Petitioner has persuasively shown that he is entitled to relief with respect to the ballot question for Measure N. First, the ballot question fails to inform voters that Measure N would rezone a great deal of agricultural lands for other uses and instead suggests the opposite in mentioning "preservation" of agricultural lands. These deficiencies do not meet the standard set forth in the Elections Code and the case law. In addition, by agreement of the parties, certain language with respect to innovation will be removed.

2. The Court hereby orders Respondent to refrain from printing and mailing the ballot question for Measure N unless it reads as follows:

Shall an initiative enacting the Strada Verde Specific Plan, and making County General Plan and Zoning Code Amendments for approximately 2,777 acres of agricultural land in northwest San Benito County, allowing various uses (including Research/Development, Automotive Testing/Tracks, Distribution, Offices, Business/Professional Services Commercial, Light Industrial, Hospitality, Retail, and Public/Private Services) and requiring the creation of a 209.5 acre Pajaro River Park and preservation of 561.7 acres exclusively for agriculture be adopted?

Court blocked printing and mailing of the biased question until County Counsel complied with the law

PRA Litigation – County lost - twice

Judgment 1

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8 Attorney for Petitioner
9 FRANK BARRAGAN
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11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SAN BENITO
13
14 FRANK BARRAGAN, CASE NO. CU-20-00165
15 Petitioner and Plaintiff, [PROPOSED] JUDGMENT
16 v.
17 COUNTY OF SAN BENITO,
18 Respondent and Defendant.
19
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26
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28
[PROPOSED] JUDGMENT

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BENITO
2021 FEB 18 AM 10:55
AP

Judgment 2

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9 FRANK BARRAGAN
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11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SAN BENITO
13
14 FRANK BARRAGAN, CASE NO. CU-20-00121
15 Petitioner and Plaintiff, [PROPOSED] JUDGMENT
16 v.
17 COUNTY OF SAN BENITO,
18 Respondent and Defendant.
19
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21
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28
[PROPOSED] JUDGMENT

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BENITO
2021 FEB 18 AM 10:56
Durdich

County resident asked for public records regarding Hazard Report and Strada Verde

County delayed release of certain records until after November 3 election

It took two lawsuits before pertinent documents were released

Background Setting

August 18, 2020, Board of Supervisors Meeting

1. County commissioned experts to prepare an Elections Code Report to evaluate Measure N's fiscal impacts and viability, consistency with the County General Plan, traffic congestion and other impacts and issues
2. A public presentation before the Board of Supervisors on the Elections Code Report was set for August 18, 2020
3. The Elections Code Report should have informed language of County ballot question and County Counsel's impartial analysis for Measure N
4. County Counsel **did not wait** for the Elections Code Report to be presented to the Board of Supervisors and instead somehow came up with her own "impartial analysis" on several highly technical matters
5. On August 18, 2020, and having already reached different conclusions, County Counsel attacked the Elections Code Report's conclusions even before the experts had a chance to present – poisoning the well
6. Attorney Ellinwood Joel revealed that the developer wrote the Strada Verde initiative in a manner that would mislead the voters regarding elimination of the buffer zone requirement
7. Uncomfortable throughout the August 18 meeting, Barbara Thompson repeatedly interrupted the expert presentation – trying to sow confusion where none exists
 - a) Misleading Impartial Analysis
 - b) Measure N's Obvious Inconsistency with General Plan
 - c) Developer's Efforts to Avoid CEQA
 - d) No Road Access

What follows: Excerpts from Elections Code Report, Impartial Analysis and Transcript of Oral Statements from August 18, 2020, Board of Supervisors Meeting. The record speaks for itself.

Experts correct County Counsel

County Counsel “Impartial Analysis”

In California voters have the right to adopt general plan and zoning ordinance amendments and specific plans through the initiative process without the notice, consultation, and public hearing process before the Planning Commission and Board of Supervisors. General plan amendments adopted by initiative must still be internally consistent with the remainder of the general plan, including the hazard buffer Policy HS-6.9, which may be superseded as to this project by the finding in Paragraph 13 of Section 2 that the SVIP-SP next to the TriCal facility is in the public interest and consistent with the General Plan.

On August 18, 2020, County Counsel issued her so-called “impartial analysis” and told voters that Measure N may supersede and eliminate General Plan’s buffer requirement – even though Strada Verde had no buffer!

County Expert Elections Code Report

The Specific Plan proposes new sensitive land uses (e.g., neighborhood center, medical facilities, commercial businesses) immediately adjacent to TriCal, Inc.’s agricultural fumigant facility located on Highway 25. General Plan Policy HS-6.9 states that “a buffer shall be maintained” between new sensitive land uses and industrial facilities such as the TriCal plant that handle hazardous chemicals. General Plan Policy HS-6.9 also provides that certain factors must be considered in connection with establishing the required buffer, such as the degree of hazard, the Risk Management Plan and the Emergency response Plan on file with the County.

However, the Specific Plan does not discuss the factors set forth in HS-6.9 nor does it establish or maintain a buffer between the new proposed sensitive land uses and the TriCal facility. Accordingly, an inconsistency exists between the proposed Specific Plan and the General Plan. Under Government Code section 65454 “[n]o specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan.”

Thankfully, experts hired by the County to evaluate Measure N weighed in to correct County Counsel....

Also on the same day, August 18, 2020, the County’s expert found the obvious: ***the Strada Verde project was inconsistent with the General Plan because it did not establish a buffer.***

The expert’s analysis speaks for itself.

The Transcript – It all comes out

JOEL ELLINWOOD: Okay, so the next issue are two issues that arise under the General Plan analysis. And I'm going to start with what I think is the most impactful. And that is the current General Plan has Hazard and Safety Policy 6.9. There are other, you know, differences that the peer review will point out, and -- but the essential gravamen of that is that there is a recommended buffer zone surrounding the TriCal plant, based on the criteria in Policy 6.9.

JOEL ELLINWOOD *continues*: And it's important for the general public to understand that they are being asked to make findings in voting for this that the TriCal Plant located in relation to the Strada Verde Project is in the public interest, and is consistent with the General Plan as amended by the initiative. And if the voters decide that, I believe it is the authors' intent to say that 6.9 no longer applies to this project.

BARBARA THOMPSON *interrupts*: And kind of to bring it back to where it was in the report, is how the report dealt with it was too simplistic and too -- not entirely accurate.

JOEL ELLINWOOD: And this is really the most important legal issue, in my opinion, in the initiative.

BARBARA THOMPSON *interjects*: And if I could interject, you know, I know that there will be some -- there will have to be some analysis of the hazard of Tri-Cal, and [how] much hazard exists. But the initial review for the peer review, and I will not speak for them until we get the final report [...],

August 18, 2020 – County Attorney Ellinwood noting the “gravamen” of the recommended buffer zone.

County Attorney Ellinwood revealing developer’s intent is for Measure N to eliminate buffer requirement (H&S-6.9) and recognizing the importance of the public understanding this point given the misleading language of the Strada Verde Initiative.

Interrupting the discussion, County Counsel reveals her discomfort with Ellinwood revealing true purpose of Measure N in simple terms.

County Counsel Thompson then seeks to sow confusion and her assertion that she “will not speak” for “peer review” consultant until “final report” is not without irony given her misconduct shown above.

The Transcript – It all comes out

Background Setting: Michael Groves of EMC Planning Group is finally allowed to present and is trying to explain (i) why passage of Measure N will allow developer to avoid CEQA review, and (ii) why the need for a Hazard Buffer creates an inconsistency between the proposed Strada Verde Specific Plan (Measure N) and the General Plan. Mr. Groves is an expert with decades of land use experience involving large-scale project development. Mr. Groves also *wrote* the County's General Plan.

Michael Groves: The Initiative Measure, under the law, does not require environmental review, so let 's be really clear. Environmental review is not required, and Mr. Ellenwood is exactly right that if there is a subsequent discretionary decision, then environmental review will be required. So, that's not at issue.

Mr. Groves summarized the law in an easy to understand manner and made the important point that, upon approval of Measure N, the developer could construct 95% of the Strada Verde project without undergoing environmental review under CEQA.

Stated another way, CEQA would not apply after the passage of the initiative unless the developer sought discretionary county approvals. And even if CEQA were triggered, any review may be severely limited because the on-the-ground reality would have already changed.

Michael Groves continues: County Counsel got hung up on some language we wrote that is at the bottom of the screen, and if you look at that language, it says:

"However, passage of the Initiative may limit any future CEQA review and constrain the ability to impose mitigation."

What does that mean? Well, if you have an initiative measure that approves a specific plan, and the specific plan has uses in it, and 95 percent of those uses approved by are permitted uses in the sense of, there is no approval requirement. They are by-right uses.

So, are you hearing that?

95 percent by-right uses [in Measure N]. They [developer] don't need a subdivision to build those uses. If they get the initiative approved, they can go build tomorrow. As soon as the initiative is approved, they can go get a site plan approval from the Planning Department and go get a building permit. They do not need to do a subdivision.

The Transcript – It all comes out

Supervisor Botelho interrupts: You know, I've got to stop you right there, Michael. With the specific plan, you've got your zoning, then you get your project, and you've got to go through a CEQA process.

Botelho parrots the developer's position, but the fact is the initiative bypasses CEQA.

Joel Ellinwood is simply wrong in thinking that a subdivision map is needed to build the project.

Joel Ellinwood: So, there are no legal parcels that you could lease or sell to a developer, ultimate owner of the property. As a practical matter, nothing can happen with it -- even if the plan is approved by the voters, until a subdivision map is approved that would create a road infrastructure network, and would establish legal parcels that could be sold or leased, under the Subdivision Map Act.

So, the fact that there may be uses that would be permitted as a right, once those subdivision parcels are created, it's correct. But, you can't get there from here, is the simple answer. You have to go through the Subdivision Map Act processes first.

Why, Barbara?

Mr. Groves, an actual expert, corrects Ellinwood and explains the developer doesn't need a subdivision and that Mr. Groves has built "lots of projects" without a subdivision.

Of course, Barbara Thompson chimes in: As a practical matter.

Michael Groves: [T]he process started with an application that would have been in that normal EIR/permitting process, and it got changed to an initiative. So, when something gets changed to an initiative, typically, the developer is trying to avoid the EIR process.

But I would also be remiss in telling you I don't agree with Mr. Ellenwood's assessment that a subdivision has to be done in order to develop. If they own all of the property, which is in that 2,777 acres, and they can get road access, they can build under the General Plan amendment, which is the specific plan. They can build under that. You can put in roads without having a subdivision. I've done it on lots of projects.

So, you know, again, these are just nuances, but I'm supposed to report those things to you. We can wash them over and say, oh, they're going to do a subdivision, they have to do a subdivision. At the end of the day, they don't have to. I'm just telling you that.

The Transcript – It all comes out

MICHAEL GROVES: So, we concluded in the report that it's inconsistent with the General Plan.... The report recommends a 3.5 mile buffer....

BARBARA THOMPSON *interrupting*: If I could interject, though, just because --

Here we go again.

MICHAEL GROVES: Let me finish what I --

BARBARA THOMPSON: Just because we do know -- no, no -- I'm just saying that the peer review has already shown that that buffer should be smaller. So, I'm just saying, repeating something that we know is probably not a true fact --

Remember: Just moments before Barbara declined to say anything about the "peer review" because it was not final.

MICHAEL GROVES *notes peer review's finding*: 2.8 [miles].

BARBARA THOMPSON: Well, we'll see, but --

The Smoking Gun e-mail sheds light on this comment.

BARBARA THOMPSON *blurts*: It's in the public interest, the location's in the public interest.--

MICHAEL GROVES: They basically have written off Policy 6.9. So their way of dealing with it is, we're going to make a finding, okay, in the initiative and we're going to have the voters approve that finding, which is basically going to make 6.9 irrelevant to this project, okay.

The Transcript – It all comes out

SUPERVISOR PETER HERNANDEZ: Say that again, sir.

The wheels are turning for Supervisor Hernandez....

MICHAEL GROVES: Yeah, so [the Developer is] basically saying in their initiative that 6.9 would go away[...] and [the Developer doesn't] need to address 6.9 if the voters approve it. That's what they're saying in the initiative and Mr. Ellinwood pointed that out very well.

BARBARA THOMPSON: It's just saying that they don't -- they're saying that this project would be consistent with the General Plan because they've made a finding that it's consistent with the General Plan, including health and safety code -- I mean, health and safety HS 6.9. So, it's saying that nobody -- it's trying to prevent somebody from saying later that it's not consistent with the General Plan by making that consistency finding in Section 2 --

More circus-like contortions from Barbara Thompson to confuse a simple but important issue.

SUPERVISOR PETER HERNANDEZ: Is that -- how are they justifying that?

The concern is growing.

BARBARA THOMPSON *interrupts*: It's highly technical.

The repeated and unsolicited interruptions are telling.

The Transcript – It all comes out

Michael Groves *disagrees*: Frankly, that is their purpose, is to avoid having to deal with the buffer zone for TriCal. And so, I'm being very blunt and that's --

***Alarmed*, SUPERVISOR PETER HERNANDEZ:** But you can't just ignore the General Plan risk mitigation expectation, right?

JOEL ELLINWOOD *jumps in*: Well, they're saying that this finding that they're asking the voters to make supersedes, overrules, trumps, whatever word you want to use, health and safety Policy 6.9. And I had a conversation with the author of this [initiative] and he confirmed that...

SUPERVISOR PETER HERNANDEZ: So, the initiative becomes de facto like 6.9, you don't have to address it?

JOEL ELLINWOOD: Yup.

BARBARA THOMPSON: It's like an amendment almost to 6.9.

MICHAEL GROVES: And the problem is, is that they didn't make that as an amendment, they just wrote that language as if it was a finding and if you guys know what that means, it's basically, they're making a finding for the people of San Benito County that it's healthy and safe, which is crazy in my mind. And I'll be really blunt about that. So, and let me tell you what the curveball is [...] what they've done is said, "Well, we're internally consistent because we're just going to ignore it."

No, unless you don't care about the health and safety of County residents.

Yet, County Attorney Ellinwood confirms that is precisely what the developer intended Measure N to accomplish!

It clicks.

More spin.

Expert explains the developer could have ***asked the voters to amend the General Plan to delete the buffer.***

But the ***problem:***

developer ***did not ask*** for an amendment because the voter reaction would have been even more negative.

The Transcript – It all comes out

MICHAEL GROVES: But I'm not going to sit here and tell you, "Oh, yeah, they put it in there and everything's good" because that's not my job. If I tell you that and we have a Beirut out there and that happened on the day I was giving you the presentation, that's agricultural chemicals blowing up –

BARBARA THOMPSON *interrupts again*: I think we need to not have too much speculation, though.

MICHAEL GROVES: It's not speculation.

The Hazard Report makes the point.

The apparent lack of concern for public health and safety is alarming.

Interrupting yet again, BARBARA THOMPSON: And also, I think that saying that it's inconsistent is just too simplistic for the legal argument that's involved because it's very technical about whether it's going to be consistent or inconsistent.

More circus-like contortions.

Clearly, Supervisor Hernandez is not buying it.

SUPERVISOR PETER HERNANDEZ: Well, either way, I mean, Barbara, I get what the gentleman is saying

County Expert returns to the seriousness of the discussion and understandably declined to agree with County Counsel and just say "everything's good."

A word on timing: Eerily just two weeks before this conversation and on the same day County experts were presenting the Hazard Report, the devastating explosion in Beirut, Lebanon occurred.

County Counsel is wrong again – No road access

1. In an attempt to convince voters the project would not increase traffic on Highway 25, Measure N claimed primary road access to Strada Verde would be the Betabel Interchange. But the developer did not own land necessary for Betabel road access and therefore the claimed primary road access may be **infeasible**.

2. County experts explained:

The required Betabel/Y Road would be a three plus-mile connector road to US 101. As part of the expansion of that road, a significant portion the road would require retaining walls ranging somewhere between five to ten feet due to the unstable geotechnical nature of the hillside directly adjacent to this area (i.e., significant landslide areas). Much of the retaining walls also would require significant grading and substantial steel tiebacks to anchor the walls, requiring sufficient land ownership in this area to accommodate the primary entry to the Specific Plan Area. In addition, large portions of the Betabel/Y connector road would need to be constructed in the floodplain. Although not a limiting factor on its own, the Specific Plan does not address the impact of the floodplain on the viability of the road access to US 101. Because the project applicant(s) may not own sufficient land needed to connect the project site to US 101 and due to potential technical, geological, and environmental considerations, the proposed primary entry to the Specific Plan area may not be feasible.

3. Highway 25 traffic is a serious problem in the County. County Counsel attacked the County's own expert conclusion asserting expert did not perform "adequate due diligence."

3. Traffic Congestion and Road Access – Inadequately supported conclusion that Betabel access is likely to be infeasible pages 7-8, 58 - 59

EMC failed to perform adequate due diligence to determine the applicant's access rights and existing condition of Y Road, raising the unsupported specter that Hwy 25 could as a result be the primary access with concomitant traffic congestion. The first five paragraphs of this section should be deleted and replaced with the following:

Note: County Counsel offered no support for her own assertion

4. Of course, County Counsel was brazenly wrong: County experts did more than "adequate due diligence" and their conclusion was supported by a written analysis from a prominent engineering firm.



The Irony

August 18, 2020, Board of Supervisors Meeting. Public records show County Counsel tried to undermine and smear the County's own experts because they would not compromise their independence and alter their conclusions. Apparently desperate and having no legitimate defense, County Counsel went on the offense and openly attacked County experts at the August 18 meeting in a thinly-veiled effort to mask their own misconduct.

BARBARA THOMPSON brazenly asserts: Now we turn to the main concerns that we have with the report as written which have not been able to be resolved by changes by the consultant. The first slide indicates the objectives of County Counsel review. County Counsel review reports prepared for the county for legal sufficiency. The principles of legal sufficiency are completeness, factual accuracy, evidence supports the conclusions that are made, legally correct, legal conclusions are supported by statutes and case law, and balanced with no evidence of bias for or against the subject of the report.

The report prepared by EMC and ADE fails to meet these criteria in its present form. County Counsel prefers to have the corrections made prior to the public release of the report.

As to the "law," County Counsel could not be more wrong having lost not one, not two, but three lawsuits while promoting Strada Verde. The lack of a basic understanding of land use law and CEQA is readily apparent from the August 18 hearing transcript.

County Counsel was in no position to **lecture** about anything....

As to "completeness," County Counsel failed to properly inform voters in her ballot question or "impartial analysis" of what Attorney Ellinwood called the **important issue:** developer intended to eliminate the buffer requirement without a formal amendment.

Consequence of Failure: voters not in attendance at the August 18 meeting would have no idea that the developer intended Measure N to eliminate the hazard buffer requirement.

As to "factual accuracy," County Counsel was wrong about the hazard risks at Trical, and even something as basic as road access to the site. To name a few.

As to "bias," County Counsel's repeated failures to remain neutral are hard to ignore. Calling a final report an "administrative draft" to delay its public release makes the point.

Request to the Board of Supervisors

Residents ask that the Board of Supervisors promptly convene a public meeting to address this serious misconduct.