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CITY OF WILLITS

November 8, 2021

Bernard B. Kamoroff, 106 State Street, Willits

Additional comments:

Initial Study / Mitigated Negative Declaration for the
City of Willits Groundwater Resiliency Improvements Project

One of the Environmental Factors in the city's Mitigated Negative Declaration, under Phase 2 Arsenic Pilot Testing, states that the city plans to treat the Long 20 well until the arsenic concentration does not exceed the California Drinking Water Standard, which is a contamination level of 10 parts per billion.

Both the state of California and the federal Environmental Protection Agency have published studies (studies that can be viewed currently on the state and EPA web sites) that arsenic concentration of 10 parts per billion, the California Drinking Water Standard, 3 people out of 1,000 can develop bladder cancer or lung cancer from drinking the water. For a Willits population of 5,000 people, that translates to fifteen unlucky Willits residents getting cancer from drinking our city water.

This is not a negative environmental impact. This is a life-threatening environmental impact. And this is what the city council is being asked to approve.

I talked to Andrea Trincado from the Willits engineering department and to Scott Herman from the water department, and both said that their goal is NO detectible arsenic, their goal is to reduce the arsenic contamination in the Long 20 well not just to the California Drinking Water Standard, but until there is no detectible arsenic — but that goal is not included in the Negative Declaration. The Negative Declaration as written allows arsenic poison in our drinking water that even the State of California, which set the standard, admits will cause bladder and lung cancer.

For the Long 20 well to meet the requirements for a Mitigated Negative Environmental Impact, the Negative Declaration needs to be revised, to read specifically that the arsenic in the Long 20 well will be treated so that it tests "not detectable" if the well will be used for our drinking water.

I urge you to reject the Negative Declaration as written and replace the California Drinking Water Standard requirement with "no detectible arsenic."

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November 9, 2021

Andrea Trincado Slater
Project Manager
City of Willits
engineering@cityofwillits.org

Re: Proposed Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration

Dear Ms. Slater:

I represent a number of concerned citizens of Willits who oppose the "City of Willits Ground Water Diversion Project". My clients have asked that I provide comments on this Project, which will be the subject of a joint City Council and Planning Commission meeting to be held tomorrow November 10, 2021. Specifically, the City's proposed Notice of Intent to Adopt an Initial Study/Mitigated Negative Declaration (the "MND") will be considered for approval at this meeting.

The City is ill-advised to approve the MND under applicable provisions of the California Environmental Quality Act ("CEQA") based on the standard applicable to MNDs as recently articulated by the California Supreme Court:

"As plaintiff points out, when an agency initially proposes a project, an EIR is required " whenever it can be fairly argued on the basis of substantial evidence that [a] project may have significant environmental impact." (*No Oil, supra*, 13 Cal.3d at p. 75; see Pub. Resources Code, § 21082.2, subd. (a) [requiring an EIR when a project " may" have a significant effect on the environment]; accord, § 21151, subd. (a).) *If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR ... because it could be 'fairly argued' that the project might have a significant environmental impact.*" (*Friends of " B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 [165 Cal. Rptr. 514]; [see *Bowman, supra*, 185 Cal.App.3d at p. 1073 [" 'fair argument'" test is a question of law, permitting the court's independent analysis of the sufficiency of the evidence].) *Friends of the College of San Mateo Gardens v. San Mateo County Community College District*, 1 Cal. 5th 937, 957 (2016) (Emphasis added in italics).

In summary, a negative declaration is permitted when " there is no substantial evidence that the project or any of its aspects *may* cause a significant effect on the environment" (CEQA Guidelines, § 15063, subd. (b)(2), italics added; see also Pub. Resource Code, §§ 21151, 21064.5), whereas an EIR is required when a project and project alternatives *may* have significant effects (*id.*, § 21002.1, subd. (a)).

D. Mills Matheson, M.D. has submitted objections based on sound scientific and medical evidence that the predicted increase in arsenic levels in the City's water system that the Project contemplates may pose a risk to human health. According to the project description, it is hoped that treatment and dilution of water pumped from the Long 20 well will be successful in reducing arsenic levels of 28 micrograms per liter ($\mu\text{g/L}$) (associated with water drawn from the Long 20) to a level that meets the California Drinking Water Standard of 10 $\mu\text{g/L}$.

Following well pump and SCADA installation, arsenic pilot testing would be performed on the Long 20 well to determine if the existing groundwater treatment plant would be able to reduce arsenic levels in the raw water to a level that meets California Drinking Water Standards. The pilot testing would initially be conducted on raw water samples from the Long 20 well, and if the plant proves to be able to effectively treat that level of arsenic, the pilot testing would be complete. If the plant is unable to effectively treat the Long 20 well raw water, water from the Elias replacement well and the Long 20 well would be mixed at different proportions for treatment, as the Elias replacement well has a negligible arsenic concentration. *Revised Draft Initial Study and Environmental Checklist, P. 5.*

Testing conducted on the Long 20 well in 2019 found that the Long 20 well contained elevated arsenic measured at 28 micrograms per liter ($\mu\text{g/L}$) [compared to the California maximum contaminant level (CA MCL) of 10 $\mu\text{g/L}$], iron measured at 540 $\mu\text{g/L}$ (compared to the CA MCL of 300 $\mu\text{g/L}$), manganese measured at 960 $\mu\text{g/L}$ (compared to the CA MCL of 50 $\mu\text{g/L}$), and odor measured at 4.5 Threshold Odor Number (T.O.N.) (compared to the CA MCL of 3.0 T.O.N.). *Revised Draft Initial Study and Environmental Checklist, P. 41.*

According to Dr. Matheson, even if the hoped for reduced arsenic standard set forth in MND of 10 $\mu\text{g/L}$ is achieved, the risk to human health may not be eliminated. Currently, all City water is drawn from the Elias replacement well which has zero detected arsenic levels. The goal of the Project with respect to arsenic is to allow the introduction of water into the City's water system that has some level of arsenic through either treatment or dilution achieved by mixing the contaminated Long 20 well water with the pure Elias well water. As Dr. Mills points out, even at the 5 $\mu\text{g/L}$ level (and possibly at even much lower levels of arsenic) there continues to be a risk to human health. The MND at no point discusses this risk and instead at page 65 dismisses any such risk as "less than Significant with Mitigation Incorporated".

Accordingly, there is substantial evidence in the record that is before the City that there is a "fair argument" that there "may be" significant adverse effects on human health associated with this Project for which an EIR is required under the holding of the Supreme Court and CEQA Guidelines quoted above.

Respectfully submitted,



Bryan Gaynor

CC: Clients