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Via UPS Next Day Delivery and Email  
July 27, 2016

John Swiecki  
Community Development Director  
City of Brisbane  
Community Development Department  
50 Park Place  
Brisbane, CA. 94005

RECEIVED  
JUL 28 2016  
Comm. Dev. Dept. Brisbane

## Re: Proposed Brisbane Baylands Development and Final Environmental Impact Report

Dear Mr. Swiecki:

I write on behalf of SFPP, L. P., the owner-operator of a terminal storage facility in the City of Brisbane whose property may be impacted by the proposed Baylands Development project which is subject to review by the City of Brisbane's Planning Commission on July 28, 2016. We submit this letter, and the attached correspondence, pursuant to the public comment procedure set forth in the Notice of Public Hearing on the proposed project and expect that it be made part of the official administrative record.

In 2012, Allan Campbell and Cheryl Roberts of SFPP submitted to the City of Brisbane comments on the Draft Environmental Impact Report for the Brisbane Baylands project. (The letter is attached and included as part of this submittal). However, when the Final EIR was released, it included both comment letters and the required responses to those letters under the California Environmental Quality Act. However, SFPP's letter was not included, and consequently no response to that letter was referenced or included in the Final EIR. After the release of the final EIR in 2014, SFPP was informed that the City had posted its letter, but the Final EIR posted on line still does not show either the letter or the required comments to that letter. As you can see, the original 2012 letter raises significant issues and concerns that we believe must be addressed should the Baylands project move forward.

By way of this correspondence, SFPP resubmits its 2012 public comment letter and asks that it be included in the administrative record and be referenced in the final EIR. Should the City wish to discuss this letter, or if it has any comments or questions, please let me know.

Sincerely,

  
John Lynn Smith

Attachment

cc: Brisbane Planning Commission



SFPP, L.P.  
Operating Partnership

November 12, 2012

Mr. John Swiecki  
Community Development Director  
City of Brisbane  
50 Park Place  
Brisbane, CA 94005

Mr. Swiecki,

Kinder Morgan has reviewed the Revised Notice of Preparation for Environmental Impact Report for the Brisbane Baylands project. As the project is a long term development that will surround Kinder Morgan's Brisbane Terminal we have comments and concerns that we believe should be incorporated and considered in your EIR.

1. The city should consider the location of Kinder Morgan's pipelines as well as the location of our terminal within the project area. There are multiple active and inactive lines in the area.
2. The Community Preferred Plan shows a Charter School within approximately 500 feet of the terminal. The Developer's Plan shows the same area as Institutional use. The city should consider a risk assessment in the EIR regarding the proximity of this use to Kinder Morgan's Brisbane Terminal.
3. Both the Community Preferred Plan and the Developer's Plan state that pedestrian trails will be included in the Public/Open Space areas in the development. The Community Preferred Plan shows pathways that pass within close proximity to either side of the Brisbane Terminal. Kinder Morgan would be opposed to any development option that would increase access to our terminal's perimeter.
4. The city should incorporate the increased security requirements at the Kinder Morgan Brisbane Terminal that will be needed due to the development.
5. The EIR should consider the geotechnical implications of development on a former municipal landfill as well as other artificial fill areas. The analysis should include existing and historic land movements in the area and whether the development proposed will increase these movements.

Kinder Morgan would be pleased to discuss our concerns and provide additional information to the city that may be of use in preparing your EIR. Thank you for the opportunity to comment on the NOP.

Sincerely,



Allan Campbell  
Director, Project Permitting



July 28, 2016

John Lynn Smith  
Reed Smith LLP  
101 2nd Street Ste1800  
San Francisco, CA 94105-3659

**Subject: Comment Letter on Brisbane Baylands Project and EIR**

Dear Mr. Smith;

The City of Brisbane is in receipt of your letter of July 27, 2016 regarding the above-referenced matter, and this letter has been entered into the record.

The letter asserts that SFPP submitted “comments on the Draft Environmental Impact Report for the Brisbane Baylands Project” in November 2012 and further states that the letter was not included in the Final EIR, nor did SFPP receive a formal response as required pursuant to the California Environmental Quality Act.

The City notes that many of the assertions in the July 27 2016 letter as referenced above are factually inaccurate, and appreciates the opportunity to correct these errors. First and foremost, the referenced November 2012 SFPP letter was submitted in response to the EIR *Notice of Preparation* released by the City of Brisbane, *not as a comment letter on the Brisbane Baylands Draft EIR*, which was not published for public review until June, 2013. This difference is critical in that the procedural requirements for a lead agency in handling an EIR NOP response are far different from the requirements for addressing written comments on a Draft EIR. Specifically, there is no legal obligation or requirement in CEQA for a lead agency to provide a written response to comments received on an EIR Notice of Preparation.

The July 27 letter further incorrectly states that “SFPP’s letter was not included... in the Final EIR”. SFPP’s NOP comment letter was included in Appendix Volume I, Section A.3 of the Brisbane Baylands Draft EIR dated June, 2013 and available for review on the City of Brisbane’s website <http://www.brisbaneca.org/baylands-draft-eir> or at Brisbane City Hall, 50 Park Place, Brisbane CA.

I would further point out that in June 2013 SFPP was sent written notice that the Draft EIR was published and available for public review, and there is no record that SFPP submitted written comment to the City of Brisbane regarding the DEIR. SFPP was also notified of the Planning Commission’s public hearings on this matter, which have been ongoing since September, 2015,

and there is no record that SFPP representatives ever testified or offered written comments during this long-standing process.

In regard to the substantive comments contained in the July 27 letter, the City of Brisbane diligently and thoroughly considered all comments received on the EIR NOP to ensure that the EIR addressed all relevant environmental issues. You will find in reviewing the Final EIR that SFPP concerns relative to pipeline safety, school safety, and geotechnical implications are all addressed. SFPP's comments relative to trail alignments and increased security desires for the Kinder Morgan do not raise issues that are relevant to the EIR but can be taken into consideration during the City's planning process.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Swiecki', written over a horizontal line.

John A. Swiecki, AICP  
Community Development Director