



February 3, 2014

Larry Agran, Councilmember
City of Irvine
One Civic Center Plaza
P.O. Box 19575
Irvine, CA 92623-9575

RE: Proposed Irvine High School No. 5 Location Site A

Dear Councilmember Agran:

It is extremely disappointing that our district must continue to commit valuable resources, including countless staff hours, to address persistent misrepresentations regarding the potential location of Irvine's next high school. Yet, as the interests of our district and its families are best served by promoting an honest and accurate discourse, I submit this comprehensive response to your letter dated Jan. 8, 2014 regarding, as you wrote, the "Proposed Irvine High School No. 5 Location (Site A) Proximate to Two Hazardous Waste Landfills."

Below you will find reference to each paragraph of your letter, accompanied by a response from IUSD and The Planning Center, which is the environmental consultant retained to review high school sites A and B. As you will see, our process, procedures and findings are not the result of assumptions, speculation or lay-person opinions; rather, they are based on the scientific studies and tested principles of such agencies as the Department of Toxic Substances Control, the California Department of Public Health, the Department of the Navy and the U.S. Environmental Protection Agency.

Your Comment: The purpose of this letter is to alert the Irvine Unified School District, as well as the California Department of Toxic Substances Control and other state agencies, to public health and safety issues arising from the proposed location of Irvine's next high school proximate to two hazardous waste landfills.

IUSD Response: The Department of Toxic Substances Control (DTSC) and IUSD are fully aware that there are former base landfills in the local vicinity of the proposed location of the High School No. 5 site. Based on the site history and adjacent land uses, a Preliminary Environmental Assessment (PEA) involving soil and soil gas testing is being implemented with the oversight of DTSC.

It should be noted that the landfills are not hazardous waste landfills as termed by your letter. One of the landfills, Anomaly Area 3 (AA3), is considered a construction debris landfill, while Installation Restoration Program (IRP) Site 3 was the original base landfill. Although both

BOARD OF EDUCATION
PAUL BOKOTA / LAUREN BROOKS / MICHAEL PARHAM / SHARON WALLIN

TERRY L. WALKER, Superintendent of Schools

JOHN FOGARTY, Assistant Superintendent, Business Services / BRIANNE FORD, Chief Technology Officer
EAMONN O'DONOVAN, Assistant Superintendent, Human Resources / CASSIE PARHAM, Assistant Superintendent, Education Services

IUSD . . . providing the highest quality educational experience we can envision.

landfills may have received some amount of hazardous materials/waste during their operation, hazardous waste landfills are defined by regulatory agencies, and are used specifically for the disposal of hazardous waste.

Your Comment: In recent months, there has been considerable confusion regarding the characterization of IRP Site 3, the original landfill (operational from 1943 to 1955) at the former Marine Corps Air Station (MCAS) El Toro, a federally designated Superfund cleanup site. The former military base was closed in 1999 and annexed into the City of Irvine in 2004. IRP Site 3 is approximately 300 yards from proposed High School Site A.

IUSD Response: The existence of IRP Site 3, its USEPA/DTSC-approved remedial activities, the distance from proposed High School Site A, and the environmental conditions that require evaluation to rule out any potential health risks to future occupants of Site A are all issues that have been addressed and made clear. As mentioned above, work is proceeding with the oversight of DTSC using scientific methods/workplans to evaluate any potential health risks from both on-site and off-site chemicals of concern. This includes, and is not limited to, the evaluation of potential impacts from IRP Site 3.

Your Comment: Two Environmental Impact Reports and other public statements, both verbal and written, have erroneously described IRP Site 3 to be either of no concern or no longer containing any toxic or radioactive material. One of the EIRs was prepared for developer Heritage Fields El Toro, LLC in pursuit of new residential entitlement. The other EIR was prepared for the Irvine Unified School District's proposed project to build its next high school on Site A.

IUSD Response: Based on the remedial actions that have occurred at IRP Site 3, using scientifically proven engineered remedies, regulatory agency concurrence and testing have been implemented with the oversight of the USEPA and DTSC. Both of these agencies have granted regulatory closure with a provision for continued operation and maintenance of the cap and monitoring system for IRP Site 3. Institutional Controls (ICs) are required at the main landfill (Area A).¹ As recently as October 2013, DTSC concurred that the operation, maintenance, and long-term monitoring shows that the conditions at the landfill continue to be protective of human health and the environment.²

The ICs are designed to:

¹ U.S. Department of the Navy. 2008. Final Record of Decision, Operable Unit 2C, Installation Restoration Program Landfill Sites 3 and 5, Former Marine Corp Station El Toro, California. February 2008

² Department of Toxic Substances Control. 2013. Comments for the August 2011-December 2012 Draft Operation and Maintenance/Long-Term Monitoring (O&M/LTM) Report, Installation Restoration Program (IRP) Sites 3 & 5, Former Marine Corp Station El Toro, Irvine, California. October 9, 2013.

- Maintain the integrity of the landfill covers
- Minimize infiltration of surface waters
- Prevent land use that presents an unacceptable risk to human health and the environment
- Protect monitoring equipment
- Preserve access to the sites and associated monitoring equipment for the Navy

With respect to the proposed High School Site A, both USEPA and DTSC did not require any remedial action, and cleared IRP Site 3 for unrestricted land use, with the exception of the capped area and its buffer.³ Therefore, the USEPA and DTSC have no concerns that IRP Site 3 would cause a health risk to occupants living on the property. The Final Record of Decision (ROD) indicates, "the DON [Department of Navy] and USEPA co-selected the remedy, and that the State of California (DTSC and the Regional Water Control Board) concurred." However, due to the fact that a school is proposed in proximity to IRP Site 3, other California regulatory requirements apply, and a school-focused evaluation of the property is being conducted with regulatory oversight by DTSC. We understand how the regulatory process for site investigation/remediation can be confusing and believe that this may be a point of the confusion you have expressed.

Your Comment: Any characterization or suggestion that IRP Site 3's contents are benign is demonstrably false. In 2003, the City adopted an EIR for annexation of El Toro to create the Great Park (a major metropolitan park of more than 1200 acres) and adjacent private development. In describing hazardous wastes at El Toro that might affect the project, the EIR characterized IRP Site 3 as "believed to contain municipal solid waste, scrap metal, incinerator ash, construction debris, paint residues, unspecified oily wastes, industrial solvents, hydraulic fluid and engine coolants."

IUSD Response: The purpose of the implemented engineered remedy was to contain the material to prevent any exposure to its contents. The engineered remedy does just that, and being that there is no exposure to any chemicals located in the capped landfill, there is no health risk. DTSC, in a letter dated Oct. 9, 2013, concurred that the operation and maintenance

³ U.S. Department of the Navy. 2008. Final Record of Decision, Operable Unit 2C, Installation Restoration Program Landfill Sites 3 and 5, Former Marine Corp Station El Toro, California. February 2008

and long-term monitoring shows that the conditions at the landfill continue to be protective of human health and the environment.⁴

Remedial Action Objectives (RAOs) for the landfill were established based on a Human Health Risk Assessment, results of site investigation and applicable or relevant and appropriate requirements (ARARs). The landfill cap is designed to protect human health by: minimizing the potential for direct contact with landfill waste; controlling runoff and erosion; minimizing infiltration; minimizing the potential for landfill gas to migrate; and minimizing the potential for surface water in the washes from contacting the landfill. The construction activities are complete and landfill remedies are in place. DTSC concurred that the operation, maintenance and long-term monitoring shows that the conditions at the landfill continue to be protective of human health and the environment.⁵

Land use restrictions and institutional controls for the landfill are outlined in the *Final Remedial Action Completion Report Operable Unit 2C, Installation Restoration Program Sites 3 and 5*, dated August 2012, prepared by Shaw Environmental Inc.⁶

Your Comment: In point of fact, IRP Site 3, in its current consolidated and "capped" form continues to contain the toxic (and, in some cases, carcinogenic) solvents, hydraulic fluids, engine coolants and radioactive materials deposited there during its use as the principal landfill for MCAS El Toro between the years 1943 and 1955. The Department of the Navy Final Status Survey Report on IRP Site 3 (April, 2013), on page 7-6 states: "Waste Area A (main landfill area) requires ICs [Institutional Controls] because chemical contaminants remain on site above levels that would allow for unlimited land use or unrestricted exposure and ongoing monitoring and maintenance is required."

IUSD Response: The purpose of the implemented engineered remedy was to contain materials and to prevent any exposure to the contents. The engineered remedy does just that, and being that there is no exposure to any chemicals in the landfill, there is no health risk.

CE2-Kleinfelder, the author of the report, presents the results of monitoring and inspection at IRP Site 3 over the period of August 1, 2011 through December 2012.⁷ The report documents

⁴ Department of Toxic Substances Control. 2013. Comments for the August 2011-December 2012 Draft Operation and Maintenance/Long-Term Monitoring (O&M/LTM) Report, Installation Restoration Program (IRP) Sites 3 & 5, Former Marine Corp Station El Toro, Irvine, California. October 9, 2013.

⁵ Department of Toxic Substances Control. 2013. Comments for the August 2011-December 2012 Draft Operation and Maintenance/Long-Term Monitoring (O&M/LTM) Report, Installation Restoration Program (IRP) Sites 3 & 5, Former Marine Corp Station El Toro, Irvine, California. October 9, 2013.

⁶ Shaw Environmental, Inc. 2012. Final Remedial Action Completion Report Operable Unit 2C, Installation Restoration Program Sites 3 and 5, Former Marine Corp Air Station, El Toro, California. August 2012

the effectiveness of the landfill cap, surface-water drainage structures, landfill gas monitoring system, groundwater monitoring network and site security features. The activities also provide data to document that the remedy components are performing as designed to protect human health and the environment.

DTSC, in a letter dated Oct. 9, 2013, concurred that the operation, maintenance and long-term monitoring shows that the conditions at the landfill continue to be protective of human health and the environment.⁸

Your Comment: This matter takes on special urgency because of Irvine Unified School District's pending decision to build Irvine's next 2,400-student comprehensive high school (High School No. 5), costing an estimated \$262 million, on a 40-acre parcel (Site A) just 300 yards east of this landfill. (See map.)

IUSD Response: The site is currently being extensively reviewed and tested under the oversight of DTSC to evaluate if there are any potential impacts from the IRP Site 3 and other base operations on and adjacent to the proposed school site. The closest school site boundary is located approximately 900 feet from the capped landfill.

Your Comment: Notwithstanding erroneous public statements to the contrary, the plain truth is that toxic and carcinogenic chemical agents (including benzene, chloroform, chloromethane, trichloroethylene and others)- presumably from paint residues, solvents, hydraulic fluids, coolants and other hazardous wastes -were never removed from the "capped" IRP Site 3 landfill.

IUSD Response: The engineered remedy, long-term monitoring and maintenance is in place to ensure that there is no exposure to any chemicals in the landfill.

Your Comment: In addition, radioactive materials- notably Ra-226 [Radium 226] paint used to illuminate aircraft instruments and other components -were also deposited in the landfill. The existence of these materials was confirmed by extensive radiological measurements taken outside the central, now "capped," area of IRP Site 3 (known as Area A). No doubt similar extensive testing of Area A - which was never done - would produce similar radiological results.

⁷ U.S. Department of the Navy. 2013. Final Operation and Maintenance and Long-Term Monitoring Report (August 2011-December 2012) Operable Unit 2C, Installation Restoration Program Sites 3 and 5, Former Marine Corp Station El Toro, California. November 2013

⁸ Department of Toxic Substances Control. 2013. Comments for the August 2011-December 2012 Draft Operation and Maintenance/Long-Term Monitoring (O&M/LTM) Report, Installation Restoration Program (IRP) Sites 3 & 5, Former Marine Corp Station El Toro, Irvine, California. October 9, 2013.

IUSD Response: Testing for radioactive material was done in Area A as documented in the following reports:

- Shaw Environmental, Inc. (A CB&I Company), 2013. Final Status Survey Report, Operable Unit 2C, Installation Restoration Program Site 3, Former Marine Corps Air Station El Toro, California, April;
- Weston Solutions, Inc., 2006. Final Radiological Release Report, IRP Sites 3 and 5, Aerial Photograph Anomaly Site 46, Anomaly Area 3, and building 244, Former MCAS El Toro, California, December;
- Earth Tech Inc., 2005. Final Technical Memorandum, Pre-Design Investigation, Operable Unit 2C, Landfill Sites 3 and 5, Former Marine Corps Air Station, El Toro, California, February; and
- Earth Tech Inc., 2006, Final Feasibility Study Addendum, Operable Unit 2C, IRP Sites 3 and 5, Former Marine Corps Air Station El Toro, California, December.

As part of the base closure process for release of Marine Corp Air Station (MCAS) El Toro for reuse, a Historical Radiological Assessment (HRA) was prepared that provided information regarding the potentially impacted areas at MCAS El Toro.⁹ Ra-226 was the primary radionuclide of concern (ROC) at MCAS El Toro because maintenance on aircraft equipped with components containing Ra-226 was performed. The HRA also concluded that no evidence was found indicating the disposal of components containing radioactive material within the landfill. However, if material was inadvertently disposed in the landfill, it would be contained within the boundaries of the waste/debris units. As part of the radiological release process, the Navy took a conservative approach for IRP Site 3 and performed a Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) Class 3 Final Status Survey (FSS) protocol. The investigation followed protocols developed by the Nuclear Regulatory Commission, the U.S. Department of Defense, U.S. Department of Energy, and the EPA. At IRP Site 3, a total of 1,092,184 survey readings were recorded over the survey area of approximately 13.7 acres. The investigation at IRP Site 3, along with risk and dose assessments, concluded that Ra-226 activity in surface soil (to a depth of 18 inches below ground surface [bgs]) at IRP Site 3 was consistent with typical levels found in soil and did not pose unacceptable risk. During the implementation of the landfill remedy, waste was screened for Ra-226. In former waste area excavations, radiological items, anomalies or discrete debris were identified and removed (CBI 2013¹⁰).

⁹ Weston Solutions, Inc., 2000. Final Historical Radiological Assessment (HRA), Marine Corps Air Station, El Toro, May.

¹⁰ Department of Toxic Substances Control, 2013. Letter from Eileen Mananian to James Callian regarding Approval of the Final Status Survey (FSS) Report, Installation Restoration Program (IRP) Site 3 Former Marine Corps Air Station (MCAS) El Toro, Irvine, California (Site Code: 400055), dated May 7, 2013.

DTSC, reviewed the CB1 2013 report¹¹ and California Department of Public Health approval letter dated May 6, 2013, which recommends that based on radiological testing the waste areas within IRP Site 3 could be released for unrestricted land use.¹² This determination did not apply to the capped main waste cell, which has institutional controls as part of the remedy.

Your Comment: While receiving less attention, nearby Anomaly Area 3 -located upslope, across Irvine Boulevard, less than 2,000 feet from Site A (see map)- poses an additional dangerous problem. According to the Heritage Fields El Toro, LLC 2012 EIR:

Anomaly Area 3 is an approximately 13-acre site located in the northwest section of the 2012 Modified Project Site near Pusan Way and adjacent to the Agua Chinon Wash in zoning district designation 8.1 TTOD [Trails and, Transit Oriented Development]. This site is considered a former refuse disposal area for construction debris. To date, the DON [Department of the Navy] has conducted a geophysical investigation, exploratory trenching, radiological screening, installed monitoring wells and vadose zone wells. Preliminary results indicated the presence of buried metallic and construction debris, along with plastics, asbestos, pipes, wood and concrete. Some groundwater samples exceeded the maximum contaminant levels and will be subject to further investigation. Soil levels for arsenic, total petroleum hydrocarbons, lead, and benzo(a)pyrene exceed industrial and residential standards.

District Response: On behalf of the Department of the Navy, the Engineering/Remediation Resources Group, Inc. produced figures that show the landfill site to be located more than 2,000 feet from the proposed High School Site A.¹³ The site is located off Pusan Way north of Irvine Boulevard, approximately 2,300 feet cross gradient of the proposed school site. The Agua Chinon Wash is located between this construction debris landfill and the proposed High School Site A. The groundwater flow direction is to the west, not toward High School Site A.

Your comment correctly labels the site as a disposal site for construction debris. The site is not a hazardous waste landfill as previously labeled in other inaccurate comments. There is a

¹¹ Department of Toxic Substances Control, 2013. Letter from Eileen Mananian to James Callian regarding Approval of the Final Status Survey (FSS) Report, Installation Restoration Program (IRP) Site 3 Former Marine Corps Air Station (MCAS) El Toro, Irvine, California (Site Code: 400055), dated May 7, 2013.

¹² California Department of Public Health, 2013. Memorandum from Kelvin Yamada to Stephen Woods regarding Radiological Unrestricted Release Recommendation for Waste Areas of Site 3, Marine Corps Air Station El Toro, El Toro, California, dated May 6, 2013.

¹³ Engineering/Remediation Resources Group, Inc., 2013. Final 2013 Semiannual Operation and Maintenance and Long-Term Monitoring Report (January to June 2013) Operable Unit 2C, Anomaly Area 3, Former Marine Corps Air Station El Toro, California dated October 2013.

landfill cover, drainage structures, landfill gas control system, site security features and long-term monitoring and maintenance in place. Institutional Controls are in place as noted above.

None of the perimeter soil gas probes at AA3 contained detectable concentrations of methane. The soil gas results indicated that methane was confined to the central portion of the site and was not migrating to the perimeter of the site. None of the 76 shallow and subsurface soil gas samples collected from within the landfill waste at AA3 had reportable concentrations of nonmethane organic compounds (NMOC)s. The report concludes that the remedy at this landfill continues to be protective of human health and the environment (Engineering/Remediation Resources Group 2013) ¹⁴. DTSC, in a letter dated Oct. 23, 2013, concurred with this conclusion.¹⁵

Your Comment: In the face of the dangerous conditions posed by IRP Site 3 and Anomaly Area 3- and the likelihood that over time, through flooding, earthquakes, and other disturbances of the land, toxins and carcinogens will migrate from these sites along airborne and waterborne pathways- it seems unthinkable to locate a high school at Site A. And, yet, our community is perilously close to a final decision by the Irvine Unified School District to build and operate a major public educational facility that, over the next 100 years, will be a campus and workplace for tens of thousands of students, faculty, and staff who are put at risk of significant exposure to toxins and carcinogens.

IUSD Response: The testing protocols approved by DTSC, which are required in order to ultimately receive California Department of Education (CDE) approval of the site, will indicate whether the conditions existing at IRP Site 3 and AA3 are dangerous or not. It is these testing protocols and conclusions upon which IUSD must rely, not lay-person opinions on such matters. Additionally, with respect to the likelihood of disturbances occurring over time, if DTSC or CDE believes that migration of toxins is likely to occur for any reason, they will surely make that known to IUSD.

Your Comment: I raised these issues in my October 22, 2013 letter commenting on IUSD's High School No. 5 EIR. I wrote as follows:

[G]iven the close proximity of the proposed project to the landfill, is it reasonable to assume that prior regulatory approvals and the requirement for further environmental reviews warrant a finding of "a less than significant impact?" ...

¹⁴ Engineering/Remediation Resources Group, Inc., 2013. Final 2013 Semiannual Operation and Maintenance and Long-Term Monitoring Report (January to June 2013) Operable Unit 2C, Anomaly Area 3, Former Marine Corps Air Station El Toro, California dated October 2013.

¹⁵ Department of Toxic Substances Control, 2013. Letter from Eileen Mananian to James Sullivan regarding 2013 Semi-Annual Operation and Maintenance and Long-Term Monitoring Report (January-June 2013), Anomaly Area #3 (AA3), Former Marine Corps Air Station (MCAS) El Toro, Irvine, California (Site Code: 400055), dated October 23, 2013.

Are other schools located next to landfills? And if so, have they experienced any health or safety complications? What are the potential health and safety issues associated with being located next to a hazardous waste landfill? What are the chances that the health and safety of the students and employees of the high school will be compromised? How will long-term health outcomes for students and employees be monitored? Will specific longitudinal epidemiological studies be organized?

IUSD Response: The testing protocols approved by DTSC, which are required in order to ultimately receive CDE approval of the site, will indicate whether the conditions which exist at IRP Site 3 and AA3 are dangerous or not. Again, with respect to the likelihood of disturbances occurring over time, if DTSC or CDE believes that migration of toxins is likely to occur for any reason, they will surely make that known to IUSD.

Your Comment: IUSD's reply to these comments and questions was unresponsive and unsatisfactory in a number of respects. IUSD's plan to safeguard high school students and personnel at Site A from exposure to migrating toxins and carcinogens is, apparently, to depend on long-term monitoring policies and related measures. The monitoring involves annual testing and - in the event of a major fire, flood or earthquake- emergency observation within 24 hours, if feasible (and not later than one week following the event). How realistic is this?

IUSD Response: The capping and monitoring remedy that was selected by the USEPA and DTSC and implemented by the DON is based on scientific studies and principles successfully utilized at other sites throughout California, and the United States. In fact, the USEPA has identified capping as a "presumptive remedy" for Comprehensive Environmental Response Compensation and Liability Act (CERCLA) municipal landfill sites. According to the USEPA,

"[p]resumptive remedies are preferred technologies for common categories of sites, based on historical patterns of remedy selection and USEPA's scientific and engineering evaluation of performance data on technology implementation".¹⁶

Your Comment: Fortunately, fires in this area are rare. But floods (defined as more than 2 inches of rainfall in a 24-hour period) that might disturb IRP Site 3 or Anomaly Area 3 and cause groundwater or airborne migration of toxins and carcinogens are relatively common; they are as common as a heavy rainstorm. And earthquakes of magnitude 4.0 or greater on the Richter scale within 100 miles -the triggering standard laid out as part of the monitoring program -are very common in Southern California. In fact, on average there have been five such earthquakes annually over the past ten years. And when the "Big One" hits- an earthquake of magnitude 7.8

¹⁶ <http://www.epa.gov/superfund/policy/remedy/presump/clms.htm>.

or even greater on the Richter scale- there will be scores of aftershocks of 4.0 or greater for a year or more.

IUSD Response: If DTSC and/or CDE believe(s) that migration of toxins is likely to occur for any reason, they will surely make that known to IUSD.

Your Comment: Any serious monitoring program would require a veritable army of geologists, soils engineers and other scientists and technicians. They would have to be armed with heavy earthmoving equipment and gas monitors and be prepared, on 24-hours' notice, to examine and determine the structural integrity of the landfill caps and test for hazardous waste migration in the soil and along airborne and waterborne pathways. How realistic is it to maintain such a monitoring program for the next 100 years or more? Who will do the monitoring? What will it cost? And in the event of findings of elevated levels of toxins and carcinogens migrating from nearby IRP Site 3 and from Anomaly Area 3, what remedial and protective measures are even possible? And who would be legally liable for these costs?

IUSD Response: There have been scores of geologists, engineers and other experts visiting the site for perhaps the last decade or more. Despite the existence of earthmoving equipment, testing and inspection, monitoring has shown no migration of any contaminants remaining in the landfill. In fact, the work product of this group has allowed the USEPA and DTSC to clear the Site A property for residential land use. Should such residential use occur in lieu of a high school facility, families would potentially live their entire lives on the same property.

It is worth noting that the Site B option you feel is superior will have similar issues, as the Site B location has a former IRP site located within its 40 acres and is adjacent to yet another IRP site.

Your Comment: For those who think these are unfounded fears, recent troubling examples provide some indication of what's being risked, particularly when negative information is kept hidden from the public. In the 1990s, the Los Angeles Unified School District put its vaunted Belmont Learning Center (High School) project on a dangerously polluted site. Ultimately, the project had to be abandoned, but only after it was nearly complete, at a cost of hundreds of millions of dollars. With taxpayer money lost, and with careers ruined and School Board officials forced out of office, the project was repeatedly described as a public works scandal of unprecedented proportions.

IUSD Response: Soon after the Belmont Learning Center problems were discovered, DTSC was charged with environmental oversight authority for schools statewide. You are incorrect about the Belmont project being abandoned under DTSC. In fact, under DTSC oversight, the project was constructed, opened and renamed the Edward R. Roybal Learning Center. It is a high school campus facility located on 25 acres that currently serves 2,800

students and relieves overcrowding at Belmont High School. Its first graduating class was in 2009.

Your Comment: And now, even as we face our own school siting issues here in Irvine, Malibu High School is making local and national news with reports of disease, disabilities, and a "cancer cluster" afflicting faculty at the school. The suspicion is that this is tied to PCBs (polychlorinated biphenyls) and perhaps other toxins and carcinogens emanating from on-campus underground storage tanks that had been removed years ago. Tests of classrooms confirmed significant PCB contamination. Amid understandable concern and fear, the school is now undergoing a partial shutdown. No doubt, as time passes and more is learned, multi-million-dollar lawsuits will follow.

IUSD Response: It is too early to determine the cause and effect of site issues, if any, at Malibu High School. Over time, proper testing and scientific protocols and methodologies may provide better insight to any confirmed issues.

If, however, PCB contamination is confirmed, IUSD likely has greater reason to be concerned with Site B. The Site B location has 24 former Underground Storage Tanks (USTs) and 5 possible PCB locations. Additionally, Site B is adjacent to the largest shallow groundwater plume on (and off) the former El Toro Base.

Your Comment: The California Department of Education's *School Site Selection and Approval Guide* provides that "Persons responsible for site evaluation should give special consideration to hazards [from] ... landfill areas on *or adjacent to* the site ... "1 [emphasis added]

IUSD Response: The Preliminary Environmental Assessment (PEA) process, under the oversight of DTSC, includes an evaluation of the potential impacts from adjacent land uses as well as on site operations.

Your Comment: On September 10, 2013, the City of Irvine made available an alternative 40-acre high school site.- Site B-within the western sector of the Orange County Great Park (see map), much closer to where thousands of prospective Irvine high school students already live. Presumably, Site B is free of the public health and public safety risks associated with Site A. (In addition to its proximity to landfills with hazardous waste, Site A is in a remote area of the City that would necessitate a 3 to 4 mile commute along high-speed, high-volume Irvine Boulevard for most of its future students. And Site A is located just 1,000 yards west of the rapidly growing Musick Jail, slated to ultimately house more than 7,500 inmates.)

IUSD Response: The proximity to residential development appears superior at Site A, and environmentally, Site B has 24 former USTs and is located adjacent to IRP 24, a shallow groundwater plume which borders to the south. Additionally, IRP 15 is located within Site B, which has yet to be fully removed from the USEPA's list of Superfund sites. While IUSD has not

yet determined whether any of the environmental features at Site B would render that site unsuitable for any high school use, these are significant environmental issues which require considerable analysis.

Your Comment: The Irvine Unified School District has publicly committed to an objective study of the relative merits of Sites A and B. Yet, there has been a publicly stated presumption by School District officials that Site A is "qualified" and "adequate." It is neither. Whether Site B is ultimately chosen -or rejected for whatever reasons- Site A must be rejected right now. *Because of unreasonable risks to public health and safety, Site A is simply unacceptable as a high school site.*

IUSD Response: IUSD has consistently confirmed, in writing, its commitment to conducting a concurrent review of the suitability of Site B as an alternative location to Site A, provided such review meets certain criteria. To this end, IUSD has, in the clearest of terms, noted that IUSD shall:

- Begin its review process of Site B with due diligence costs funded by Heritage Fields El Toro, LLC;
- Work cooperatively and collaboratively with its developer partners to review and analyze Site B, its physical characteristics and overall suitability as a high school campus site, as well as the effect switching to an alternative location this late in the planning process may have on the overall High School Project;
- Continue to comply with all of the terms and conditions of the existing mitigation agreements (and related documents thereto) between IUSD and its developer partners, and as part of such due diligence review of Site B, analyze the ramifications for IUSD and the High School Project caused by delay of the High School Project in order to facilitate any alternative site, including, but not limited to, state funding, construction costs, interim housing costs, school overcrowding and contractual obligation concerns; and
- Continue to work cooperatively and collaboratively with its developer partners to analyze the salient terms of any transaction that is documented between the City and Heritage Fields El Toro, LLC with regard to Site B.

IUSD has done, and is doing, all of the forgoing, just as it indicated it would. While its concurrent review continues, IUSD and its developer partners still have many questions about Site B, and it remains entirely unclear how any possible Site B transaction would occur between the City and Heritage Fields El Toro, LLC, and how such a transaction would effect IUSD, the High School Project or the existing mitigation agreements to which IUSD is bound.

IUSD continues to take the actions noted above in good faith, and reiterates that given the lack of any formal request to review any alternative location until September 2013 and the dramatic effect overcrowding will have on IUSD students and families should the High School Project be delayed, IUSD would need to see a clear benefit and strategy to planning toward Site B as the location of the High School Project. In the meantime, IUSD is continuing with finalizing its review and potential acquisition of Site A, and IUSD reminds all stakeholders that Site A has proven, based upon review thus far, to be a very viable site for a safe, efficient, state-of-the-art IUSD high school.

As a school district, our central objective is to do what is best for the students of Irvine and their families. We believe you ultimately share this goal, but we would question whether there are additional motivations with regard to this project. For example, we recognize that your preferred site for IUSD's next high school would necessitate a land purchase that would bring at least \$60 million to the City. At the very least, this could raise eyebrows as a potential conflict of interest. Meanwhile, though you have expressed environmental concerns about Site A, you have conspicuously failed to publicize that Site B has been identified under the Resource Conservation and Recovery Act (RCRA) as a Hazardous Material site due to the significant amount of historic military activity, and, in contrast to Site A, Site B has yet to be fully removed from the EPA's Superfund list of hazardous waste sites. Considering these realities, and in the absence of complete test results, on what grounds can you make the assumption that Site B is a suitable location for a comprehensive high school? Are you truly advocating that we reject the extensive expert analysis that has so far indicated the viability of Site A, while disregarding the many questions surrounding Site B? Such a course would run contrary to our district's tradition, as well as its core values.

As noted previously, given IUSD's history and the proven capabilities of its Board of Education, administration and staff, there should be no doubt that the entire Irvine community will be proud of its next comprehensive high school, should it occupy Site A or elsewhere. We hope that you, as a leader in this community, will be a part of this important project. Yet I want to stress that this campus will not be built on a foundation of assumptions, misrepresentations or scare tactics. Irvine's next high school, like those that came before it, will be constructed with the guidance of top engineers and experts in environmental science to meet the highest standards of the 21st century.

Sincerely,



Terry L. Walker
Superintendent of Schools

Larry Agran, Councilmember

February 3, 2014

Page 14

cc: Director Debbie Raphael
California Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806
debbie.raaphael@dtsc.ca.gov

Project Manager Rana Georges
Schools Evaluation and Brownfields Cleanup Branch
Brownfields and Environmental Restoration Program
California Department of Toxic Substances Control
Cypress School Branch
5796 Corporate Avenue
Cypress, CA 90630
rana.georges@dtsc.ca.gov

State Superintendent of Public Instruction Tom Torlakson
California Department of Education
1430 N Street
Sacramento, CA 95814
superintendent@cde.ca.gov

Secretary Matthew Rodriguez
California Environmental Protection Agency
1001 I Street
P.O. Box 2815
Sacramento, CA 95812-2815
matthew.rodriguez@calepa.ca.gov

Director Ken Alex
Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3004
ken.alex@gov.ca.gov

Mr. Dan Young
President, Community Development
The Irvine Company
550 Newport Center Drive
Newport Beach, CA 92260
dyoung@irvinecompany.com

Mr. Mike LeBlanc
Senior Vice President, Entitlement
The Irvine Company
550 Newport Center Drive
Newport Beach, CA 92660
mleblanc@irvinecompany.com

Mr. Emile Haddad
President and CEO
FivePoint Communities
25 Enterprise
Aliso Viejo, CA 92656
emile.haddad@fivepointcommunities.com

Irvine City Manager Sean Joyce

Irvine City Council

IUSD School Board

John Fogarty, IUDS Assistant Superintendent, Business Services

Lloyd Linton, IUSD Executive Director, Construction Services, Facilities and Planning