

October 31, 2009

North Embarcadero PMPA
San Diego Unified Port District
Land Use Planning Department
PO Box 120488
San Diego, California 92112-0488

Dear Port of San Diego:

Thank you for the opportunity to give scoping comments on the upcoming Draft EIR for the NEVP Port Master Plan. Our concerns are simple in we want the Port of San Diego, CCDC, and the City of San Diego to confirm or deny the presence of the active Coronado Fault of the active Rose Canyon Fault Zone (RCFZ) on reclaimed Port tidelands as part of the Draft EIR so that planning decisions can be made based upon scientific evidence, as required by law.

Many decision-makers in San Diego say that the Navy Broadway Complex site is not the problem of the City, Port, and CCDC because it is Federal land. However, the Navy Broadway Complex is part of the North Embarcadero and was mentioned repeatedly in the previous environmental documents for the NEVP. Therefore, the unmitigated effects of the Navy Broadway Complex in the North Embarcadero area of downtown cannot be ignored any longer by the Port of San Diego, the City or CCDC, but will have to be acknowledge so that solutions to the outstanding problems can be scientifically discussed as part of the planning process.

At the request of Mr. Valerio of the Port, on September 29, 2009 we emailed the Port of San Diego contact information for State agencies that can give seismic guidance to the Port, CCDC, and the City on a seismic plan to confirm or deny the active Coronado Fault on Port Tidelands. Hopefully, the Port of San Diego has already contacted the state agencies and ask for guidance. Contact information included the following:

California State Geologist.

http://www.conservation.ca.gov/cgs/cgs_history/geologists/Pages/jgp.aspx

John G. Parrish, Appointed California State Geologist 2005.

Headquarters/ Office of the State Geologist, 801 K Street, MS 12-30,
Sacramento, CA 95814,

(916) 445-1825 FAX: (916) 445-5718 cgshq@consrv.ca.gov

State Mining and Geology Board

<http://www.conservation.ca.gov/smgb/Pages/Index.aspx>

Mailing Address: 801 K Street, Suite 2015, Sacramento, CA 95814,

Phone: (916) 322-1082, facsimile: (916) 445-0738, e-mail:

smgb@consrv.ca.gov,

Stephen Testa – Executive Officer, Stephen.testa@conservation.ca.gov

Alfred E. Alquist Seismic Safety Commission

<http://www.seismic.ca.gov/staff.html#staff>

1755 Creekside Oaks Drive, Suite 100, Sacramento, California 95833-3637,

Telephone (916) 263-5506 fax 916-263-0594 Dick McCarthy

McCarthy@stateseismic.com Executive Director Fred Turner"

turner@stateseismic.com Bob Anderson anderson@stateseismic.com

916-325-3800

http://www.coronado.ca.us/tcp_web/tcp_nr_20040331.asp

Environmental Phase of Coronado Tunnel Project Underway. Extensive Public Outreach Program Planned to Keep Residents Informed. PRESS RELEASE Contact: Gail Brydges 619-522-7814

Michael Kennedy of the California Geological Survey (CGS), who currently has offices at Scripps Institute of Oceanography (SIO) mapped and named the active Coronado fault as part of a Caltrans safety study on the Coronado Bridge in 2001. Mr. Kennedy told the City that "public safety makes it imperative that the exact location of these youthful faults be mapped onshore prior to any development." However, instead of resolving the outstanding seismic problems, the City of San Diego and CCDC ignored the correspondence of the CGS and instead persuaded Superior Court Judge Ronald Prager to rule on April 22, 2009 that liquefaction is not a seismic hazard, and the Downtown Special Fault Zone is not a Seismic Hazard Zone as part of the Navy Broadway Complex lawsuit. As part of the draft EIR for the North Embarcadero PMPA the inaccurate ruling by Judge Prager should be challenged by the Port of San Diego, so that all local decision-makers are aware that liquefaction is indeed a seismic hazard, and the Downtown Special Fault Zone is indeed a seismic hazard zone in accordance with California law.

<http://sdcitybeat.files.wordpress.com/2009/04/navy-broadway-tentative-ruling-04-21-2009.pdf>

We are assuming that the outstanding seismic and public safety issues will be resolved through a complete and valid fault investigation in the draft EIR for the North Embarcadero PMPA. If the Port does not plan on confirming or denying the active Coronado Fault on port tidelands as part of the Draft EIR, please contact us immediately so that we can give you further evidence that the outstanding seismic issues are required to be resolved as part of CEQA.

We do not want to wait until after the draft EIR is issued to find out that the Port of San Diego does not believe the delineation of the active Coronado fault is not required to be confirmed or denied as part of CEQA law. At part of the Notice for the project, the Port stated they would address land use and planning, traffic, parking, climate change, air

quality, hydrology and water quality, public facilities, recreation, and cumulative impacts. No where is the notice did the Port of San Diego verify that the seismic issues would be discussed, analyzed, and solved. This is disconcerting to us. Again, with this correspondence we are assuming that the Port of San Diego will no longer allow the seismic evidence to be hidden due to legal technicalities that do not actually exist.

The lack of civic Leadership and a disregard for basic safety laws are the reason why the NEVP has not been compelled. The fight for the North Embarcadero area includes the Navy Broadway Complex (NBC) and the hiding of existing scientific information and geotechnical reports that would confirm or deny the existence of the northern extension of the active Coronado Fault of the active Rose Canyon Fault Zone (RCFZ), through Seaport Village, the new Rucco Park next to the Old Police Headquarters, past Harbor Drive, underneath our Navy's proposed West Coast high-rise Headquarters, and through the intersection of Pacific Highway and Broadway. The following link shows an example of Open, Transparent Peer Review of the Coronado Tunnel Fault Investigation for the City of Coronado, California that the Port, CCDC, and the City of San Diego should follow.

http://www.laplayaheritage.com/Documents/CITY_OF_SAN_DIEGO/TAP_SDI6R037-Appendix_J.pdf

The difficult nature of the problem requires guidance from world renowned experts that have already dealt with the same Coronado fault in 2005 and 2006 as part of the Coronado Tunnel Technical Advisory Panel (TAP). For the first TAP panel, information exchange was done by email, teleconferencing, and one meeting with all stakeholders. The subject of seismicity underwater and under reclaimed tidelands is very technical in nature. There are just a handful of people in San Diego County who have the expertise in underwater fault investigations including Michael Kennedy of the CGS and SIO, and Tom Rockwell of SDSU. Another seismic expert is Dr. Jinrong Wang of Caltrans, who led the Coronado Tunnel Technical Advisory Panel (TAP) in 2005 and 2006. Dr. Wang has previously stated that the TAP for the Coronado Tunnel study can be reconvened to give guidance to San Diego at no cost. In addition, the Seismic Safety Commission and the State of California Mining and Geology Board have technical programs that provides guidance to help local governments live up to their seismic responsibilities at no additional cost. However, before they the State Boards can help, the local government agencies have to ask them for guidance on seismic issues.

Linked below is our Formal Complaint to the United States Navy, CCDC, and the City for conspiracy to commit honest services fraud. Our complaint also documents all State Seismic laws and how easy it will be to follow existing laws, once local government agencies acknowledges they need professional seismic guidance.

http://www.blogofsandiego.com/Issues/NavyBroadway/Seismic/NBC_Complaint_20090629.pdf

As discussed, there has been significant changes since the North Embarcadero Visionary

Plan EIR was certified bring Section 21166 of CEQA into play.

From 1995 to 2007, CCDC told the City DSD, the Port, and the California Coastal Commission that Port tidelands are not part of the Downtown Special Study Zone and do not require fault investigations to be conducted. In 2007 at a meeting with the City DSD, CCDC, Kevin Faulconer's office, and the City Attorney all government agencies acknowledge that the Downtown Special Fault Zone western boundary is located at the United State Bulkhead line at the end of Broadway and B Street Piers.

http://www.laplayaheritage.com/Documents/CITY_OF_SAN_DIEGO/NBC_Appendix_D_Terra_Physic_Seismic_Reflection_&_CPT_Soundings.pdf

Appendix D linked above shows the results of the Seismic Reflection Survey to Detect the Coronado Fault Zone, Pacific Gateway Development, San Diego, California by Terra Physics dated June 30, 2006. The Terra Physics reports shows active faults, anticlines and/or anomalies bisecting the North Embarcadero area for hundreds of feet vertically. When discussing the results of the Seismic Reflection Survey to Detect the Coronado Fault Zone with Seismologist Kerry Hennon (RGp-886) of Terra Physics in Highland, California, Mr. Hennon told us that though the seismic reflection surveys showed active faulting, by definition, active faulting cannot be confirmed until Cone Penetrometer Tests (CPT) and continuous sample borings are conducted on site. The seismic reflection surveys showing active faulting on the Navy Broadway Complex are considered black box technology. Therefore the results are only valid after additional seismic testing and analysis. The seismic analysis was never completed in accordance with the California Geologic Survey's Special Publication 117 and the report was deemed by the City of San Diego Geologist Werner Landry as inadequate and invalid.

http://www.laplayaheritage.com/Documents/CITY_OF_SAN_DIEGO/NBC_10News_20070614.pdf

Linked above is the 10News investigation into the hiding of Seismic information in the North Embarcadero area of downtown San Diego. Included in the news report are quotes from Professor Scott Ashford of UCSD, Michael Kennedy of the California Geologic Survey, and Dr. Jeffrey Johnson. After independent third-party review of the seismic information turned into the City of San Diego, Dr. Jeffrey Johnson prepared a report dated May 4, 2007 that confirmed the City Geologist position, that active faulting in the North Embarcadero is probable, but cannot be confirmed without additional scientific investigation.

The existing NEVP EIR states that there are no known active fault within the project area. Active faulting was acknowledged at the Old Police Headquarters by the Port, CCDC, and the City of San Diego in 2007 at the southeast corner of Harbor Drive and Pacific Highway. There is also substantial evidence that active faulting exists on the Navy Broadway Complex (NBC) and extends into the Phase I NEVP at the intersection of Pacific Highway and Broadway, and Harbor Drive between the NBC and Ruocco Park in downtown San Diego, California. The exact location of active faulting is required to be

delineated by law so that the underground utilities in the NEVP can handle deformation from the active Coronado Fault of the Active Rose Canyon Fault Zone. The active Coronado Fault first has to be acknowledge so that during planning our taxpayers dollars are wisely spent using flexible connections in the underground utilities. Flexible connections should be used in the Downtown Special Fault Zone "between equipment components to allow for rotational and/or translational movement without degradation of performance." The Rose Canyon Fault Zone (RCFZ) moves approximately one inch every 12 years, with a Maximum magnitude of 7.2. The NEVP street improvements and underground utilities are not considered habitable structures. Therefore, for Phase I of the NEVP the fault investigation is required by State law before building permits are issued. If habitable structures were to be constructed in Phase I of the NEVP, then the fault investigation would be required at project submittal. Time and time again, utilities in the North Embarcadero area and on Mount Soledad have been built with brittle materials that cannot take deformation instead of the City approved flexible connections. The lack of flexibility on the active fault zone results in many avoidable water and sewer spills. The City of San Diego Building Standards includes Flexible Connection for underground utilities in active fault zones. However, for years when we talk to construction workers in the field, they do not seem to know that flexible connection are required, because active faults are not delinated on approved plans. The NEVP is the perfect opportunity to design in deformation of the active Rose Canyon Fault Zone, using flexible connections to improve the performance of underground utilities, roads, and intersections, plus save taxpayer money.

Our seismic concerns will be resolved once the TAP and State Geologists approve the required fault investigations in the Port's draft EIR. Besides the Port Master Plan (PMP), the missing 10-acre park at the foot of Broadway was re-approved by the City of San Diego and CCDC (and by their silence the Port of San Diego) as late as February 26, 2008 when the local government agencies denied our appeals to the Navy Broadway Complex (NBC). Attached and linked below is our Formal Appeal regarding the NBC CEQA Consistency Analysis for the 1990/1992 EIR/EIS, revised dated November 7, 2006, which specifically discussed the missing 10-acre park at the foot of Broadway.

http://www.laplayaheritage.com/Documents/CITY_OF_SAN_DIEGO/Appeal_of_the_Navy_Broadway_Complex_20061103.pdf

Pages 16 and 17 of the reference Appeal shows maps of the required 10-acre park depicted on Figures 1-2, 1-4, 3-4, 3-5, 3-6, and 3-9 taken from the reapproved NBC EIR/EIS. Pages 6 and 7 discusses the missing 10-acre park which was supposed to include portions of Lane Field, where a new hotel is now planned. In addition to re-approving the missing 10-acre park, the City of San Diego and CCDC (and by their silence the Port of San Diego) also re-approved the missing 1,542 off-site parking spaces on Port tidelands as part of the recertification of the 1990/1992 EIR. Pages 7 to 9, and Page 18 of the linked appeal discussed the missing 1,542 off-site parking space for the NBC. Where in the North Embarcadero does the Port of San Diego plan on accomodating the Navy's off-site parking requirements for the Navy Broadway Complex site?

Congressman Bob Filner has already wrote the Port, CCDC, and the City of San Diego asking that the active faulting be denied or confirmed in accordance with the California Geologic Survey's (CGS) request of 2007. The FBI is currently conducted an investigation on why the seismic reports in the North Embarcadero area of downtown San Diego have been hidden by public agencies. A discussion on active faulting should be included in the draft EIR for the North Embarcadero PMPA. Also, local government agencies have never sent the geotechnical investigation for projects with active fault to the State Geologist in Sacramento for incorporation into a new updated Alquist-Priolo Earthquake Hazard map for the Point Loma Quadrangle.

When will the existing fault investigations on Port tidelands be sent to the State Geologist as required by law?

Our solution to resolve everyone problems is to relocate the existing Navy Broadway Complex to an existing secure Naval Base. After the active faults are delineated, 3 of the 8 blocks of NBC can still be built upon. We are proposing that the public land be used for a new Port of San Diego building, California building, and City Hall on the water front. The other 5 blocks which contain active faulting can then be used for two levels of subterranean parking with at grade open space and park land as required in the Downtown Community Plan and EIR. Providing parks and open space over active faults will also mitigate all our concerns with the missing 10-acre park for Phase 1 of the NEVP.

The Navy has already received \$25 million dollars and a free \$1.5 million dollar EIR from the Port of San Diego for their lease on the Lane Field property specifically for the Navy's Headquarters. Instead of being located at Navy Broadway, the new Navy headquarters can be located on the existing Point Loma Anti-Submarine Warfare Base at Harbor Drive and Nimitz. On the east side of the NTC Channel, the Nickelodeon Hotel chain just stopped their plans for a hotel/water park because of the bad economy. The area which is owned by the City of San Diego Redevelopment Agency is an existing airport parking lot, can now be used for parking for the Navy's new West Coast Headquarters within an existing secure Military Base. It is a win-win for everyone, plus our public safety concerns are resolved. Aerial photographs of the new proposed location for the NBC are linked below.

<http://www.flickr.com/photos/laplayaheritage/sets/72157622265528427/>

Please resolve our outstanding seismic concerns so that the public will be protected by following every day, normal State of California seismic laws.

<http://www.portofsandiego.org/about-us.html>

The Mission Statement for the Port of San Diego is copied below:

"While protecting the Tidelands Trust resources, the Port will balance economic benefits, community services, environmental stewardship, and public safety on behalf of the

citizens of California."

The Port of San Diego's Strategic Goals for Fiscal Years 2007 - 2001 include the following:

Goal 3: Protect and improve the environmental conditions of San Diego Bay and the Tidelands.

Goal 4: Ensure a safe and secure environment for people, property and cargo.

Goal 5: Develop and maintain a high level of public understanding that builds confidence and trust in the Port.

Until the Port of San Diego confirms or denies the existence of the active Coronado Fault of the active Rose Canyon Fault Zone (RCFZ) in the North Embarcadero area of downtown San Diego with scientific evidence subject to Third-Party review, no planning or construction should take place.

Regards,

Katheryn Rhodes and Conrad Hartsell, MD
371 San Fernando Street
San Diego, California 92106
rhodes@laplayaheritage.com
619-523-4350