

Jose Henriquez

From: Jose Henriquez [jose.henriquez@edcgov.us]
Sent: Wednesday, February 10, 2010 12:51 PM
To: 'roger.trout@edcgov.us'
Subject: RE: Malcolm Dixon Road TM

Roger,

Please accept my apologies for not getting back to you sooner; I've been working on our Commission packet. Yes, this has been a frustrating experience. I realize you've been "recently" appointed director so you may not know the entire history, but the lack of communication with LAFCO over the review of environmental docs predates me and I've been working on it with your predecessors for four years. Time and again it seems like things revert back a just as progress was being made. So thank you for your understanding.

The process you outline below to review admin drafts is acceptable. For the typical ND or MND we could have comments back to you within 15 days. Obviously for larger or more technical documents the turnaround may be slightly longer but not significantly so. We would still appreciate getting a copy of the document (or being notified of its availability) when it is out for circulation again, however.

José

José C. Henríquez
 Executive Officer
 El Dorado Local Agency Formation Commission
 550 Main Street, Suite E
 Placerville, CA 95667
 530-295-2707
<mailto:jose.henriquez@edcgov.us>
www.edlafco.us

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

From: roger.trout@edcgov.us [mailto:roger.trout@edcgov.us]
Sent: Thursday, February 04, 2010 5:59 PM
To: Jose Henriquez
Subject: RE: Malcolm Dixon Road TM

Jose,

Thanks for your comments, I did not realize how frustrated you were. We can definitely work out a better process to get you what you need.

I will work with Pierre Rivas and the planners to clarify our procedure for getting LAFCO our draft CEQA documents. I think your staff should see the documents before they are made public. This would be the best way to ensure a timely processing of the discretionary applications.

How much time is needed by your staff to review the average Mitigated Negative Declaration?

I can have the draft CEQA documents emailed to your office for review, about the same time Pierre Rivas is reviewing the draft staff reports by the planners. Your comments or corrections could be incorporated at the same time Pierre's comments and corrections are being made. If that process sounds feasible, I can implement it shortly.

If not, we can just send you an email when the CEQA document is posted on our webpage so you have the full time period to comment.

I am sure there are other ways to do this, so let me know your thoughts and preferences.

Roger Trout
 Director, Development Services Department

(530) 621-5369
Fax: 530-642-0508

roger.trout@edcgov.us

El Dorado County Development Services Department
2850 Fairlane Court
Placerville, CA 95667

"Jose Henriquez" <jose.henriquez@edcgov.us>

To <roger.trout@edcgov.us>

cc

02/04/2010 04:25 PM

Subject RE: Malcolm Dixon Road TM

Roger,

Thank you for the quick response. We have no records that we ever submitted comments for an environmental document for this project, either under the name of "Chartraw," which is what it went by in the past, or its current "Malcolm Dixon Road" name. Based on our search through our files, we have reason to believe the September 21, 2006 letter you reference below is the letter written by Erica to Daniel Hamilton at PMC for the Diamante project. If this is incorrect, please scan a copy of the letter so that I can review it with my staff. However, if we are correct that the 2006 letter is not in response to Planning's request for comments on a Chartraw/Malcolm Dixon project, I assume you would agree with me that, contrary to what Mr. Baron asserts to Erica in an e-mail sent this afternoon, it is erroneous to think that any comments submitted on an adjacent project automatically translates to this one and, therefore, relinquishes the lead agency from having to notify the responsible agencies. As I understand CEQA, that is not what the law requires of lead agencies. If I am wrong, please let me know.

But my larger point is that as a responsible agency we should have been given the opportunity to comment within the 30 days specified in CEQA regulations. The MND was signed by Pierre Rivas on January 19, 2010 and this document relies on a special species status evaluation dated August 2009; so this is a recently-prepared document and not one created five years ago. Again, we have no record that we received a request for comments on any project on this parcel ever, and by that statement I include the closed 2005 LAFCO project. While the opposite is true, even if we assume that an environmental document was prepared on the closed 2005 project and the new project is substantially unchanged from the old one, we would still need to review the MND to determine if any of the Section 21166 events have occurred.

In addition, while I am glad there is a window of opportunity, the reality is that we should never have to be put in a situation where we provide comments for a period that contains less than 30 days. This is at least the third time in which we were placed on an "expedited" timeline by Mr. Baron (this one and twice on Alto and I can provide you with documentation if you need to see them). Let me be clear: I will not accept it any longer. Your staff needs to understand that we must receive the proper notification on all projects in which LAFCO has discretionary approval. There are no exceptions. As permitted by CEQA guidelines, I reserve the right to assume lead agency status on any project with a County environmental document that we did not have the opportunity to review and comment within the timelines specified by CEQA. When an applicant balks and complains about additional time and expense, I will refer them to your department with a copy of this e-mail. This e-mail will also be included in the Commission packet for the February LAFCO meeting.

I hope you do not find this e-mail to be unreasonable and I hope you understand my frustration. I simply fail to understand how this could happen again, especially on a project located in such a high-profile area.

José

José C. Henríquez

Executive Officer

El Dorado Local Agency Formation Commission

550 Main Street, Suite E

Placerville, CA 95667

530-295-2707

<mailto:jose.henriquez@edcgov.us>

www.edlafco.us

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

From: roger.trout@edcgov.us [mailto:roger.trout@edcgov.us]

Sent: Thursday, February 04, 2010 1:29 PM

To: Jose Henriquez

Subject: Re: Malcolm Dixon Road TM

Jose,

Our policy is to circulate these projects to your agency for review when the project is submitted to us, along with all other responsible agencies. Please note that a Notice of Preparation is not required for a Negative Declaration, only for an EIR. This project, TM05-1401 was originally submitted in December 2005 and distributed to most agencies in early 2006.

We received a LAFCO comment letter on September 21, 2006 (from Erica Sanchez).

This was one of a series of projects that were originally being handled by contract planners from PMC. This has been a continuing problem as we process these permits and some processing steps (such as coordination with LAFCO) have been incomplete.

The CEQA document for this case has not been certified, so we have a window of opportunity to resolve any CEQA issues with this project. The Planning Commission Hearing is February 25, and they will be forwarding a recommendation to the Board of Supervisors.

I will have Mike Baron contact you for further review of the CEQA document. I can assure you that we intend to coordinate our efforts with LAFCO on all our discretionary projects. This case should be the anomaly,

Sincerely,

Roger Trout
Director, Development Services Department

2/10/2010

73

(530) 621-5369
Fax: 530-642-0508

roger.trout@edcgov.us

El Dorado County Development Services Department
2850 Fairlane Court
Placerville, CA 95667

"Jose Henriquez" <jose.henriquez@edcgov.us>

02/04/2010 01:04 PM

To <roger.trout@edcgov.us>
cc

Subject Malcolm Dixon Road TM

Roger,

About an hour ago we were notified that the Malcolm Dixon Rd Project (formerly known as Chartraw) was set to be heard by the Planning Commission later this month. The link to the project on your website is provided below. This is a project that has been in and out of the LAFCO process for years, preceding me. Consequently, it is a project that we have a lot of interest in since it would require annexation into EID and El Dorado Hills Fire. Unfortunately, we have no evidence that we were given the opportunity to comment on the draft mitigated negative declaration when the notice of preparation was circulated. As you know, as a responsible agency we must provide the Lead Agency specific detail about the scope and content of the environmental information related to the responsible agency's area of statutory responsibility; otherwise, the document may have little value to the LAFCO process.

For the past two years, LAFCO staff has been trying to work with County Development Services to iron out the CEQA notification process. I thought we had the kinks worked out, especially with projects assigned to Mr. Baron. The experience with this project implies otherwise, which is extremely frustrating to me. Malcolm Dixon Rd has the potential to be the latest project in which we have to notify the applicant that their CEQA document prepared by the County may be inadequate and that they will have to spend additional time and money to have something that addresses LAFCO's responsibilities under CEQA. Please let me know what steps your department will be taking to correct the situation with this project specifically and in the general CEQA process.

<http://www.edcgov.us/Planning/ProjectInquiryDisplay.asp?ProjectID=14442>

Please call me at 530-295-2707 if you have any questions.

74
2/10/2010

José

José C. Henríquez

Executive Officer

El Dorado Local Agency Formation Commission

550 Main Street, Suite E

Placerville, CA 95667

530-295-2707

<mailto:jose.henriquez@edcgov.us>

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