

MICHAEL M. HONDA

17TH DISTRICT, CALIFORNIA

WASHINGTON OFFICE:

1713 LONGWORTH HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

PHONE: (202) 225-2631

FAX: (202) 225-2699

<http://www.honda.house.gov>

DISTRICT OFFICE:

900 LAFAYETTE STREET, SUITE 206

SANTA CLARA, CA 95050

PHONE: (408) 436-2720

(855) 680-3759

FAX: (408) 436-2721



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October 18, 2016

Mayor Sam Liccardo and San Jose City Council
San Jose Planning Commission
200 East Santa Clara Street
San Jose, CA 95113

Dear Mayor Liccardo, City Council, and Planning Commission

I am writing to respectfully request that the Planning Commission's Public Hearing on Republic Services (Newby Island Landfill) odor study and appeal, scheduled for Tuesday, October 26, 2016, be continued until January 2017 to allow for the collection of outstanding data and correction of incorrect data by the Bay Area Air Quality Management District, and additional community review of the previously excluded data.

On August 5, 2016, I hosted a workshop for the community, bringing together experts from the Environmental Protection Agency, Bay Area Air Quality Management District, and California Department of Resources Recycling and Recovery (CalRecycle). Although the workshop presentations covered the need for a regional approach to waste management and waste reduction, the vast majority of community concerns that were raised pertained to adverse odors emanating from the Republic Services Newby Island Landfill.

Since that workshop, I have continued to hear from residents who are concerned with ongoing odor issues as well as a perceived lack of transparency by the City of San Jose regarding the odor study. Specifically, community groups have expressed concern about the flawed reporting and analysis of BAAQMD data and landfill violation history. In particular, data published in the odor study and referenced in the staff report appears to be inconsistent with other data collected directly by BAAQMD's enforcement unit.

First, BAAQMD recently confirmed, in writing, that it had provided the incorrect data to the consultants and Planning Commission concerning alleged versus confirmed complaints. This is a significant omission of data and is fundamental to the issue at hand.

Next, the Planning Commission staff report appears to downplay the odor issue by stating that of the 5,735 odor complaints made to BAAQMD from the residents of Milpitas San Jose, and Fremont during a 17 month time period, only 248 were confirmed to be attributed to Newby Island. On its face, this may imply that only a small percentage of complaints are caused by the landfill. However, just because 5,397 of the complaints were not confirmable to any source by BAAQMD does not mean that they were not caused by the landfill. It means that for whatever reason, perhaps due to a lack of timely inspection, the

source of the odor was inconclusive. BAAQMD admits that it is only able to validate a fraction of the complaints that come into their hotline. Thus the number of odor complaints that were caused by the landfill could be much higher. If the Planning Commission were to consider only the number of complaints that were confirmed to a source, 92.6 percent of confirmed complaints were attributed to the landfill, suggesting a more significant problem than the staff report implies.

It is also my understanding that concerned residents have requested that the city require a comparison of Newby Island confirmed complaints and violations with those of the other active operating landfills in City of San Jose. This data should then be compared with CEQA guidelines for odor thresholds. Understanding how the problems associated with Newby Island compare to those connected to other landfills can help the Planning Commission to evaluate whether other options the city might employ to address its waste disposal needs would have less impact on the community than the expansion of Newby Island.

Finally, there is a significant number of outstanding complaints still pending. These 69 complaints should be investigated and included in the public record to be considered by the Planning Commission. To disregard this data would negatively impact the reliability of the odor study.

For years, I have heard from many of my constituents from San Jose, Milpitas and Fremont who signed a petition to the San Jose Planning Commission to stop the landfill expansion, and who are unhappy with the fact that the facilities at Newby Island allow odors to permeate to the surrounding neighborhoods. They are frustrated and feel their complaints continue to be ignored, and I believe their voices must be heard on this important decision that will impact their communities and their lives for many years to come.

Because of the potential long term impacts of this issue on the health and quality of life of those living in nearby communities, and concerns over the validity of the odor study and subsequent analysis, I strongly urge the City Council and Planning Commission to continue this public hearing to allow for the consideration of all available data and for further review by the community. Doing so would assure the public of a fair hearing and demonstrate full transparency of their government.

Sincerely,



Michael M. Honda
Member of Congress