

November 15, 2019

Kate Gordon, Director  
Office of Planning and Research  
State of California  
1400 10<sup>th</sup> St.  
Sacramento, CA 95814  
Delivered via e-mail: [California.jobs@opr.ca.gov](mailto:California.jobs@opr.ca.gov)

**RE: Oakland A's AB 734 Supplemental Application (#2019039102)  
SUBSTANTIAL AND MATERIAL ADMISSION AGAINST AB 734 CLAIM BY OAKLAND A'S;  
OAKLAND A'S November 1, 2019 CLARIFICATIONS ON THE APPLICATION**

Dear Director Gordon,

We are writing this supplemental comment letter to advise OPR CARB of a substantial and material admission by the Oakland Athletics in a recent public forum which contradicts and is contrary to their AB 734 submission and requested findings with respect to GHG Emissions Reductions and to note to OPR that there was no AB 900 Listserv notice to the public of the Oakland A's filing on November 1, 2019, thereby prejudicing the public's ability to comment on this filing by the deadline.

**SUBSTANTIAL AND MATERIAL ADMISSION AGAINST GHG EMISSIONS REDUCTION CLAIMS**

We respectfully request that you take these recent comments by the Oakland A's into consideration as evidence of either a material admission against interest or a substantial change in the project subsequent to their AB 734 submission. In any event, the A's are facially and publicly contradicting one of the key claims of the A's AB 734 submission: that the A's can take credit for the reduction of GHG emissions on-site based on an assumption of the continued operation of the power plant.

On November 6, 2019, the Oakland Athletics made an "Informational Presentation by the Oakland Athletics on their proposal for a new ballpark and related mixed-use development at Howard Terminal" to the Oakland City Planning Commission. The full Webcast of the meeting is available online, at <https://www.oaklandca.gov/meetings/november-6-2019-planning-commission-agenda>. ("Webcast") The specific purposes of the informational presentation were to provide the Oakland City Planning Commission and the public with an opportunity to "preview the site plan development" as currently envisioned by the A's.<sup>1</sup>

***At this presentation, the A's specifically commented on their intended future use of the peaker plant building by stating: "this energy peaker-plant building, now operated by Vistra, that we are hoping to re-imagine as an amenity for the public."<sup>2</sup>***

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<sup>1</sup> Webcast, at 13:30, Oakland City Deputy Planning Director Ed Manasse: "The A's are here to provide an informational presentation to the planning commission, to give an update on community outreach, and preview the site plan development resulting from ongoing work with staff in the City of Oakland, Port of Oakland, as well as BCDC and State Lands."

<sup>2</sup> Webcast, at 42:56, Oakland A's representative: "Martin Luther King Plaza where MLK meets the site in a rise at a plaza adjacent to this energy peaker-plant building, now operated by Vistra, that we are hoping to re-imagine as an amenity for the public."

This comment was made in conjunction with the presentation of Slide 123 to the Planning Commission. (Attached) Consistent with this description of their intent to turn the Vistra property into a public amenity, Slide 123 depicts the current power plant building as open to the public with visitors entering and exiting the building through open doors and windows, surrounded by picnic tables and a beverage service, facing Athletics Way.

The unambiguous intent to turn the powerplant property into a visitor-serving public amenity is confirmed elsewhere in the A's presentation when it specifically labels the powerplant as a public amenity on its proposed "Athletics Way" and identifies the site as "anticipated ground floor retail."

A's Slide 92 (Attached) and its related presentation talking points<sup>3</sup> described Athletics Way "as a continuation of Water Street," and identified the experience as a "walk surrounded by retail, food and beverage, and other merchandising opportunities," with these areas designated on the Slide in dark red. The current power plant building is highlighted in its entirety as a public amenity along with these other labeled amenities (from right to left) on Slide 92:

- Jack London's Cabin
- Plank
- Scott's Seafood Grill & Bar
- Gondola Station
- Ferry Lawn
- USS Potomac
- Lightship Relief
- Oakland Powerplant
- Rickey's Lawn
- 6 unlabeled amenity areas (see "anticipated ground floor retail" slide 61)

Slide 61, labeled the "Masterplan Framework, GROUND FLOOR PROGRAM," (Attached) also specifically confirms that the intention of the A's is to redevelop the Oakland Powerplant building facing MLK plaza and Athletics Way specifically as "Ground Floor Retail." As noted regarding the unlabeled amenity areas on Slide 92, the designation of the Powerplant property is identical to those other areas labeled as "Ground Floor Retail" on Slide 61.

***Significantly, at no point in time during the Planning Commission presentation of the Site Plan, which included very detailed illustration of prospective Land Uses on-site across 147 slides, did the A's representatives ever mention that there would be continued energy production, storage, or transmission activities on site at the Vistra facility specifically or at Howard Terminal in general.***

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<sup>3</sup> Webcast, at 34:54, Oakland A's representative: "Athletics Way is one of the most significant, I would say social moments of the whole plan, in many ways it is a continuation of Water Street, an idea of a pedestrian-oriented walk surrounded by retail, food and beverage, and other merchandising opportunities. It would extend from Jack London all the way to wrap around the ballpark in a full, full ring. So the vitality of Jack London can just be expanded and hopefully enhanced and embellished by the introduction of the ballpark. And we see this being a really special pedestrian moment."

As described by the Oakland City Deputy Director of Planning, the A's presentation to the Oakland City Planning Commission is the best and most recent, contemporary expression of the A's intended designs for Howard Terminal site planning. The A's presentation of this plan clearly and unambiguously expresses the intent to "re-imagine" the Power Plant building as a public amenity. If the A's do retain any residual intent to use the property as an ongoing Power Plant, as asserted in the AB 734 Application, such an intent is contradicted by the evidence of their actual site plans as given to the Oakland City Planning Commission and the public.

This evidence is yet another in a long string of reasons why the A's proposed AB 734 Supplemental Application has failed to demonstrate that it has a net zero GHG emissions project. We respectfully request that OPR and CARB take notice of this evidence in the further consideration of the findings necessary to deem this project consistent with the terms of AB 734 and AB 900 as required by law.

**NO PUBLIC NOTIFICATION OF POSTING OF SUPPLEMENTAL PROJECT APPLICATION RECEIVED**

PMSA is registered for the AB 900 Listserv, however PMSA did not receive notice of the Oakland A's "Clarifications on the Application" and related Attachments which were submitted on November 1, 2019 to OPR. PMSA had no actual notice of the November 1, 2019 "Clarifications" filing by the Oakland A's until today, November 15<sup>th</sup>, when reviewing the OPR website for the purposes of submitting the comments above regarding the A's admissions against interest regarding GHG emissions.

PMSA did receive an OPR AB900 Listserv notice on November 1<sup>st</sup> but it was entitled "Supplemental Information Submitted on Inglewood Basketball and Entertainment Center Project" and the links from that email are exclusively related to the Inglewood project, not to the Oakland A's project.

We would respectfully request that OPR staff review whether or not there was a proper execution of the AB 900 ListServ notice sent on or after November 1<sup>st</sup> with respect to the Oakland A's project, and further please advise whether such a notice had been sent or if one had not been sent.

If OPR confirms that no notice was provided to the public, or that there were errors in the AB 900 ListServ that resulted in the lack of full notification to the public, then PMSA would recommend that this oversight be remedied immediately by OPR providing the public with a proper AB 900 ListServ notice. Provision of a notice would cure any situation resulting from lack of notice that is otherwise prejudicial to the public, including PMSA, in missing an opportunity to comment timely on the Oakland A's Supplemental Application, and start the comment clock as appropriate.

If OPR asserts that a notice was in fact provided to the public, please provide the evidence of such notice to PMSA since PMSA had no actual notice of the November 1, 2019 "Clarifications." In such a situation, we would ask OPR to conclude that even if constructive notice was made, to allow late comments in order to minimize the prejudice of lack of actual notice received from OPR by interested parties.

Thank you in advance for your investigation of this administrative matter.

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As always, please do not hesitate to contact me if you have any questions or concerns regarding this important Application by the Oakland A's.

Sincerely,

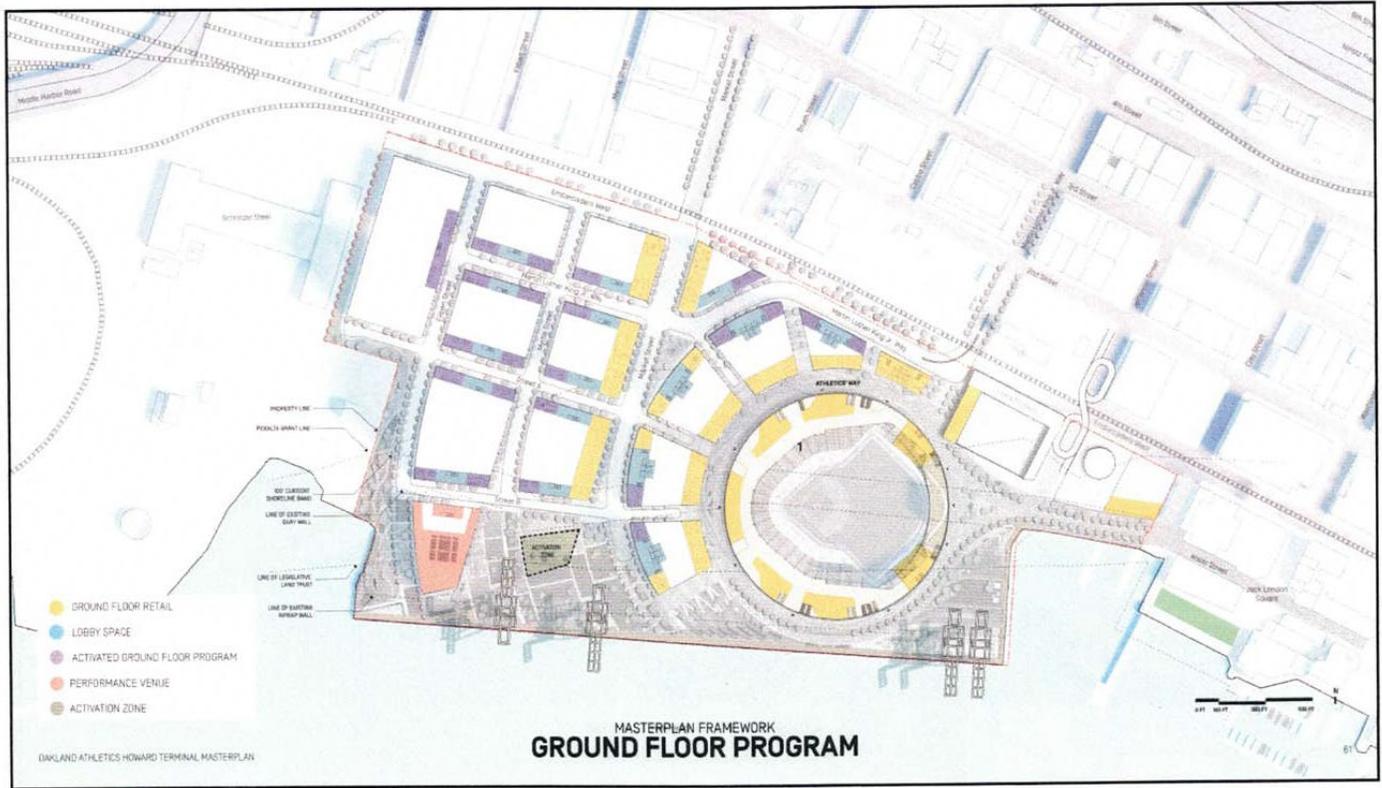
A handwritten signature in blue ink, appearing to read "Mike Jacob". The signature is stylized and written in a cursive-like font.

Mike Jacob  
Vice President & General Counsel

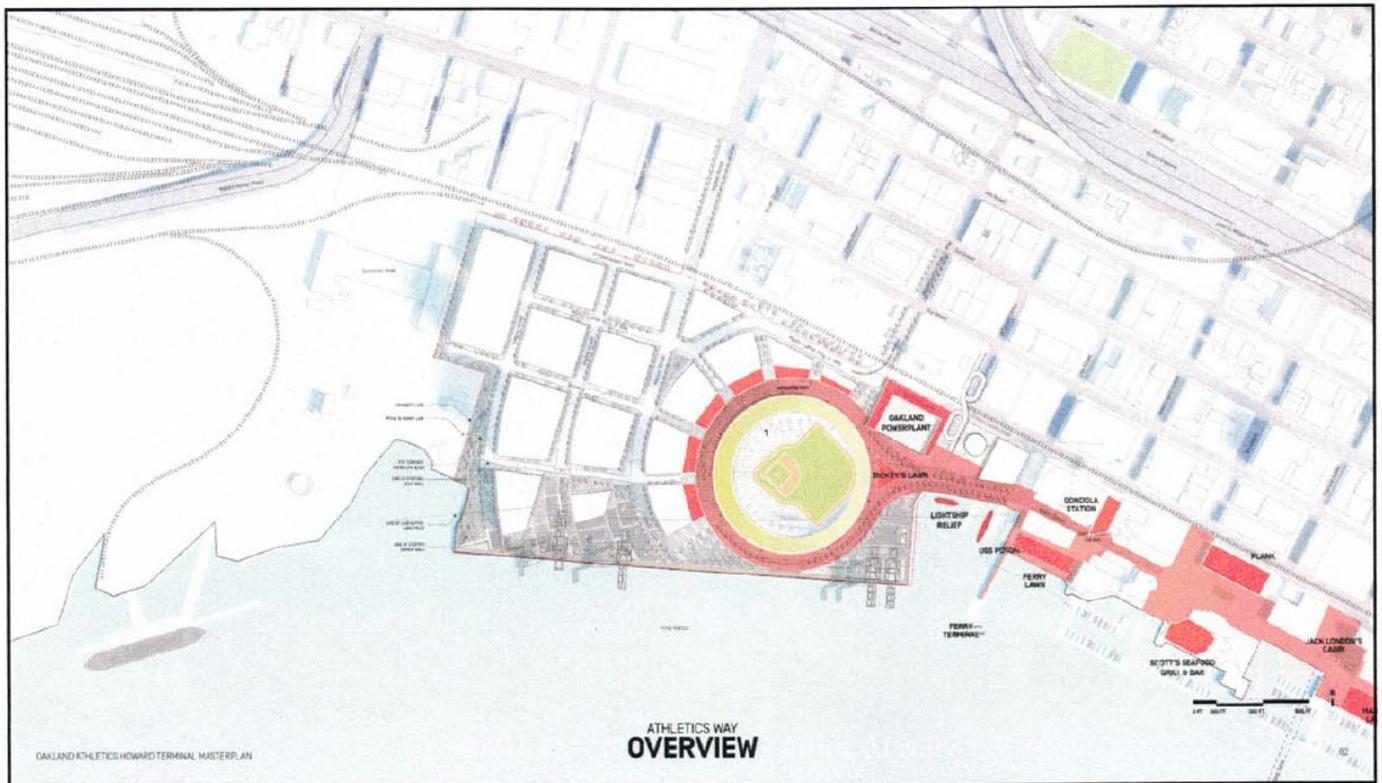
enclosures

cc: Mr. Steve Cliff, CARB  
Ms. Natalie Kuffel, OPR

# SLIDE 61



# Slide 92



Slide 123

