

# NRDC

June 15, 2020

Mindy Wilcox, AICP, Planning Manager  
City of Inglewood, Planning Division  
One West Manchester Boulevard, 4th Floor  
Inglewood, A 90301  
Ibecproject@cityofinglewood.org

Re: Comments on the Draft Environmental Impact Report for the Inglewood  
Basketball and Entertainment Center (IBEC), SCH 2018021056

Dear Ms. Wilcox:

This is a brief comment on the City of Inglewood's responses to my March 24, 2020 comment letter on the Clippers arena project.

One argument in my March 24 letter focused on the differences in the GHG analysis between the AAB 900 certification application and the DEIR. One of the City's responses is that the AB 900 process requires a fixed baseline – the time of the NOP – but the EIR used a baseline that was adjusted annually.

An annually adjusted baseline is improper under CEQA in the circumstances of this case. The standard rule is that, as CARB realized, the CEQA baseline is the actual condition on the ground at the time of the NOP. CEQA Guidelines Section 15125 provides:

An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.

Although less than clear, what the City's comment response appears to contemplate is use of a future baseline as emission standards and the like are tightened. In doing so, the project attempts to take credit for circumstances that it has nothing to do with, and that would occur whether the project is ever built or not – such as tightened auto GHG emission standards over time. Indeed, even if those standards are tightened, building

**NATURAL RESOURCES DEFENSE COUNCIL**

1314 2ND STREET | SANTA MONICA, CA | 90401 | T 310.434.2300 | F 310.434.2399 | NRDC.ORG

# NRDC

the project will make emissions worse than they otherwise would be because of increased VMT directly attributable to the project.

In *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*, 57 Cal.4<sup>th</sup> 439 (2013), the California Supreme Court evaluated use of a future baseline in an EIR for the Expo Line light rail project. The agency used a baseline for air quality that projected traffic fifteen years into the future, based on projections from SCAG. The court upheld that baseline in the case before it, explaining that a future baseline for traffic may be permissible where an agency can show that an analysis based on the usual standard would tend to be “misleading or without informational value” and is “justified by unusual aspects of the project or the surrounding conditions.”

There is nothing unusual about the Clippers project that would validate departure from the standard rule about CEQA baselines. It is a large stationary project, not a rail line or other transportation project. A baseline as of the date of the NOP is easy to calculate. Whether cars are, or are not, more efficient in the future does not change the fact that the project will draw many tens of thousands of new vehicle trips into the area. The EMFAC program can easily account for changes in emissions factors over time and the program’s results can be directly compared with the pre-project baseline. Thus, the special circumstances described in the *Neighbors For Smart Rail* case do not exist here.

The reason that developers like using a future baseline is that it makes the increase in emissions look smaller and so mitigation will be less costly. That is not sufficient reason to bend the law in favor of the Clippers project.

Finally, I would like to draw your attention to the June 12, 2020 decision of the California Court of Appeal, 4<sup>th</sup> Appellate District, in *Golden Door Properties v. County of San Diego*, available at 2020 WL 3119041. The Court’s opinion rejects the County’s attempt to short-circuit GHG mitigation by using standardless GHG offset protocols, even if sold by an agency certified by CARB. Based on the *Golden Door* opinion, the City needs to take another look at the Clippers project’s offsite mitigation proposals and make sure that they are each additional and enforceable – which San Diego’s were not.



Thank you for your consideration of this letter.

Yours truly,

David Pettit  
Senior Attorney  
Natural Resources Defense Council

**NATURAL RESOURCES DEFENSE COUNCIL**

1314 2ND STREET | SANTA MONICA, CA | 90401 | T 310.434.2300 | F 310.434.2399 | NRDC.ORG