

SAVE THE PLASTIC BAG COALITION

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RECEIVED

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CITY OF SANTA BARBARA
CITY CLERK

August 15, 2013

City Clerk
City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

VIA FEDERAL EXPRESS

RE: Appeal of EIR certification

Dear City Clerk:

I am hereby filing the enclosed appeal to the City Council of the Planning Commission's certification of the single use bag ordinance EIR. The Planning Commission certified the EIR on August 8, 2013. A check for the filing fee in the amount of \$465 is enclosed.

Sincerely,



Stephen L. Joseph
Counsel

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SAVE THE PLASTIC BAG COALITION

APPEAL OF CITY OF SANTA BARBARA PLANNING COMMISSION'S CERTIFICATION OF FINAL EIR ON SINGLE USE CARRYOUT BAG ORDINANCE TO CITY COUNCIL, BASED ON FAILURE TO PROVIDE NOTICE OF PUBLIC HEARING AND CEQA VIOLATIONS

**(Planning Commission Resolution 011-13
certifying EIR adopted August 8, 2013)**

NOTICE OF INTENT TO LITIGATE

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(\$465 filing fee paid herewith)

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INTRODUCTION AND APPEAL

On August 8, 2013, the City of Santa Barbara ("the "City") Planning Commission voted 6-1 to certify the Final EIR on the Single Use Carryout Bag Ordinance. (Planning Commission Resolution 011-13.) Save The Plastic Bag Coalition ("STPB") hereby objects to the certification and appeals to the City Council.

STPB hereby appeals the certification on procedural and substantive grounds:

- A. The first procedural ground is that public commenters and objectors STPB and Anthony Van Leeuwen were not provided notice of the August 8, 2013 Planning Commission public hearing on certification of the EIR. They had no knowledge of the hearing. They would have made public comments at the hearing if they had known about the hearing. (STPB is not associated with Anthony Van Leeuwen in any way.)
- B. The second procedural ground is that the "City Of Santa Barbara Addition To The Final EIR" was not provided to STPB or Anthony Van Leeuwen prior to the August 8, 2013 Planning Commission hearing and they received no notice that the document even existed. Therefore, they were unable to comment on and object to the document prior to certification. STPB objects to the "Addition" document as it incorporates and is based on the errors and CEQA violations contained in the Final EIR.
- C. The substantive grounds are that the EIR fails to comply with CEQA in the ways described herein.

All of STPB's objections submitted to BEACON and all supporting documents submitted to BEACON are incorporated herein by reference.

At the Planning Commission hearing on August 8, 2013, two of the Commissioners stated that they believe that the EIR was biased and not objective.

Chairman Mike Jordan stated:

[Referring to the no options alternative.] It makes the options or considerations appear one-sided to someone who doesn't have the same philosophical view on the subject as I do. (Commencing 02:48:58)....

I was going through the pages and pages of letters and replies. Mostly the replies. I just saw over and over and over again a response to the comments that was equivalent to the commenter presents no evidence. And that sort of deflates the requirement to answer to that comment. And I literally could sit down and find that 25 times in one letter, which the letter seemed to be a novel in the first place. Is that, I've never seen that before in three and a

half years of looking at EIRs that I remember. Is that an appropriate response to a comment? (Commencing 02:51.26)....

I agree with pretty much everything Mr. Thompson said. [See below.] I just in my three and half years I was just unimpressed with the level of structure of the EIR and I too thought it was more of an advocative document rather than an unbiased document.... (Commencing 03:17.43.)

Commissioner Addison Thompson stated:

But the more I got into reading it, and I did read it, some sections two and three times, the more I got the feeling that I was getting a spin, that's the current term that the media uses or to present something in good light when maybe it isn't necessarily in a good light. And what I mean by that is that I got the feeling that we weren't getting as an objective analysis as quite possible could be done. It was more to backup the idea of this ordinance.... We get the impression when anybody is reading this EIR that it's very very accurate, when in fact it's precise but not accurate.... I don't think this EIR is ready for prime time. (Commencing 03:11:10)

A video of the Planning Commission can be downloaded at:

http://santabarbara.granicus.com/MediaPlayer.php?view_id=66&clip_id=5745

**OBJECTION TO AND APPEAL OF FAILURE TO GIVE NOTICE OF
PLANNING COMMISSION PUBLIC CERTIFICATION HEARING AND
ADDITION TO EIR TO COMMENTERS AND OBJECTORS STPB AND
ANTHONY VAN LEEUWEN**

On January 31, 2013, STPB's counsel Stephen Joseph (who is and has always been the sole point of contact for STPB) moved from San Francisco to Los Angeles. Beginning in March 2013, STPB filed a series of extensive comments on and objections to the BEACON Draft and Final EIR. In all objections, e-mails, and documents sent to BEACON, STPB always provided the following address: 11693 San Vicente Blvd. #150, Los Angeles, CA 90049. STPB never used any other address with BEACON.

In its March 25, 2013 objections to the Draft EIR, STPB stated: "Pursuant to CEQA including but not limited to CEQA Guidelines §15072(b), I request that you send me, by e-mail and regular mail to the address on the letterhead of this document, any and all responses or findings regarding these objections and all notices regarding the proposed ordinance." The address on the document is the Los Angeles address. (Exh. A attached hereto.)

As of March 25, 2013, BEACON was to be the certifying agency. There was no indication that a city or county would certify the EIR. The Final EIR issued in April 2013 states:

"The environmental review process will culminate with a BEACON Board of Directors hearing to consider certification of a Final Program EIR. For each of the counties and participating municipalities, Section 2.6 in Section 2.0, Project Description, provides a detailed description of approvals that may be necessary for the Proposed Ordinance."

The reference to Section 2.6 was an error. The detailed description of approvals was in fact in Section 2.7 which states as follows:

2.7 REQUIRED APPROVALS and PERMITS

For BEACON, the following approval would be required.

- *Certification of the Final Program EIR (Board of Directors)*

Both Santa Barbara and Ventura counties and each participating municipality will consider whether to adopt the Proposed Ordinance. For unincorporated Santa Barbara and Ventura counties, adoption of the Proposed Ordinance in each jurisdiction would require an amendment to the county's ordinance code with discretionary approval by the county's Board of Supervisors. The following approvals would be required:

- *Consider the Final Program EIR (Board of Supervisors)*
- *Adoption of an Ordinance amending the Ordinance Code (Board of Supervisors)*

For each of the participating municipalities, adoption of the Proposed Ordinance would require an amendment to the city's municipal code with discretionary approval by the municipality's city council. The following approvals would be required for each of municipalities considering adoption:

- *Consider the Final Program EIR (City Council)*
- *Adoption of an Ordinance amending the Ordinance Code (City Council)*

Subsequently, BEACON decided that City Councils and Board of Supervisors would certify the EIR, not BEACON. The Revised Final EIR issued in May 2013 includes a revised Section 2.7 at pages 2-11 and 2-12, which states as follows:

2.7 REQUIRED APPROVALS and PERMITS

For BEACON, functioning as a joint powers agency for preparation of the Program EIR, the following approvals would be required.

- Certification of the Receive a report that the Final Program EIR was completed in compliance with CEQA (Board of Directors)
- Authorize and direct the Executive Director to distribute copies of the Final Program EIR to BEACON member agencies and other jurisdictions for those jurisdictions' consideration and use, at their discretion, in adoption of a Single-Use Bag Reduction Ordinance

For both Santa Barbara and Ventura counties and each participating municipality, each would function as lead agencies for the certification of the Final EIR for each individual jurisdiction's project (adoption of a Single-Use Bag Reduction Ordinance that would apply within that jurisdiction). In addition, each jurisdiction will consider whether to adopt the Proposed Ordinance. For unincorporated Santa Barbara and Ventura counties, adoption of the Proposed Ordinance in each jurisdiction would require certification of the Final Program EIR (in accordance with CEQA Guidelines Section 15090) and an amendment to the county's ordinance code with discretionary approval by the county's Board of Supervisors. The following approvals would be required:

- Certification of consider the Final Program EIR (Board of Supervisors)
- Adoption of an Ordinance amending the Ordinance Code (Board of Supervisors)

For each of the participating municipalities, adoption of the Proposed Ordinance would require certification of the Final Program EIR (in accordance with CEQA Guidelines Section 15090) and an amendment to the city's municipal code with discretionary approval by the municipality's city council. The following approvals would be required for each of municipalities considering adoption:

- Certification of consider of the Final Program EIR (City Council)
- Adoption of an Ordinance amending the Ordinance Code (City Council)

Subsequent to adoption of the Proposed Ordinance, each municipality would need to file a Notice of Determination (NOD) per CEQA Guidelines (Section 15094).

As stated in the Final EIR, certifications would be by City Councils and Boards of Supervisors, not Planning Commissions.

All notices by BEACON were sent out by Rincon Consultants who prepared the EIR and maintained the mailing list. RINCON supplied the City of Santa Barbara with the mailing list. In fact, as Rincon had erroneously sent a notice to STPB's previous San Francisco address in June 2013, STPB immediately contacted Rincon to ensure that all future notices would be sent to STPB's Los Angeles address. On July 1, 2013, RINCON sent an e-mail to STPB confirming that only STPB's Los Angeles address would be used. (Exh. B attached hereto.)

On July 11, 2013, STPB's counsel sent an e-mail to the City of Santa Barbara regarding the proposed ordinance and the EIR with the Los Angeles address. (Exh. C attached hereto.)

On July 25, 2013, the Planning Commission issued a Notice of [City of Santa Barbara] Planning Commission Hearing and Document Availability. (Exh. D attached hereto.)

The Notice stated that the Planning Commission would hold a public hearing on certifying the EIR on August 8, 2013. The Notice also states: "The public is invited to speak on any item on the Planning Commission Agenda." The certification of the BEACON EIR was one of the listed agenda items. (The Finalized Agenda is Exh. G attached hereto.)

The Notice also stated that additional documents were available at www.SantaBarbaraCA.gov/PC. STPB does not know whether additional documents were posted on the website other than the agenda.

The Notice was mailed to STPB on July 25, 2013 at STPB's previous San Francisco' address. (Exh. D attached hereto. July 25, 2013 is the date on the postmark.) No notice was sent to STPB's Los Angeles address. On August 5, 2013, the Notice sent to San Francisco was forwarded by a mailbox service to STPB's correct address in Los Angeles. (Copy of forwarding envelope with August 5 postmark is Exh. E attached hereto.) It was received at STPB's address in Los Angeles on August 9, 2013 at the earliest. Stephen Joseph checked his Los Angeles mailbox late on August 8 and it had not been received. STPB's counsel did not see the notice until Monday August 12, 2013. The Notice was not sent by e-mail to STPB including Stephen Joseph.

On August 1, 2013, after the Notice was sent, the Planning Commission issued a Staff Report with an attached exhibit entitled: "City Of Santa Barbara Addition To The Final EIR." (Hereinafter referred to as the "Addition document." The Addition document is dated August 1, 2013. Exh. E attached hereto.)

On August 8, 2013, the City of Santa Barbara Planning Commission held a public hearing on the Final EIR. STPB including Stephen Joseph had no idea that a hearing was being held or that a staff report and the Addition document existed.

At the August 8, 2013 hearing, the Planning Commission voted 6-1 to certify the EIR. (Exh. G attached hereto.) The City Attorney stated at the hearing that the "City Of Santa Barbara Addition To The Final EIR" was part of the EIR that the Planning Commission was certifying. The document had not been made available to the public on the website and STPB including Stephen Joseph had no idea that it existed until August 12, 2013. Stephen Joseph received it by e-mail from Anthony Van Leeuwen on August 11, 2013. (Exh. H attached hereto.)

Anthony Van Leeuwen is not associated with STPB in any way. He too submitted extensive comments on and objections to the BEACON EIR. He received no mail or e-mail notice whatsoever of the August 8, 2013. He has advised me that he too did not know that a hearing was being held and he did not receive the "Addition" document until after the hearing had been held. (See Exhs. H and I attached hereto.)

STPB strongly objects to the failure to notify STPB and Anthony Van Leeuwen of the hearing and provide a copy of the Addition document. If STPB and Anthony Van Leeuwen, would have known about the hearing and the Addition document, they would have attended the

hearing and made substantial public comments. They were entitled to engage with the Planning Commissioners in discussing their comments and objections and responding to questions. No other commenters and objectors spoke at the Planning Commission hearing, making it appear that there was no active opposition or objections.

STPB contacted the Planning Commission when he discovered that a hearing had been held on August 8, 2013 and objected. STPB requested a new hearing. (Exh. J attached hereto.)

The City Attorney, Stephen Wiley, responded and refused to permit another hearing. He stated: "As you know, I advised you that you are not legally entitled under CEQA to mailed notice of this hearing and that you got the notice legally required for this hearing when the City provided proper public noticing under the Brown Act - all of which I suspect you already know full well and are just trying to create a false issue."

Wiley has told Stephen Joseph over the phone that he should have been monitoring the Planning Commission website to see if any hearings were being noticed. However, there was no prior indication that the EIR was going to be considered or certified by the Planning Commission. According to the Final EIR, the City Council would be the certifying agency. The Planning Commission was not mentioned. In any event, STPB had requested by e-mail and mail "all notices regarding the proposed ordinance" and was entitled to receive it such notices at the correct address that was provided.

A Declaration of Stephen L. Joseph under penalty or perjury is attached hereto in supporting of this objection regarding notice.

With respect to the objection regarding lack of proper notice, STPB requests that the City Council disapprove, reverse, and invalidate the Planning Commission's certification and require that the Planning Commission hold another public certification hearing and that notices of the hearing be sent to all objectors and commenters on the EIR, including but not limited to STPB at its Los Angeles address.

STPB also request that the City Council order the City Clerk to refund the \$465 filing fee paid by STPB to lodge this appeal.

STPB hereby notifies the City of Santa Barbara that it STPB will file suit to reverse the certification based on the failure to provide adequate notice. All rights are reserved.

Nothing herein waives any substantive CEQA objections made by STPB regarding the EIR.

SUMMARY OF SUBSTANTIVE OBJECTIONS AND CEQA VIOLATIONS

	Page(s)
<p>A. (1) Failure to base evaluation of impact of 10-cent fee on paper and reusable bag usage on Santa Monica High School survey; and (2) failure to factor into metrics prospective purchases of plastic bin-liners and other plastic bags to replace plastic carryout bags</p> <p>COMMENT: (1) The Santa Monica High School survey is the <u>only</u> pre-ban and post-ban survey ever conducted. It is the <u>only</u> empirical data that is available for determining the impact of a 10-cent fee on paper bag and reusable bag usage in a city that has banned plastic bags. It is an unbiased and well-documented study based on <u>50,400 transactions</u>. The authors conclude: "The upward drift in paper bag use at regular stores in 2012 warrants further investigation..... If undercharging is not occurring, a steeper fee of more than 10 cents may need to be considered." The evaluation of the impact of the 10-cent fee must be based on this survey.</p> <p>(2) The Draft and Revised Final EIRs fail to factor into the environmental calculations prospective purchases of plastic bags for use as bin-liners and other uses</p> <p>CEQA VIOLATIONS: Pub. Res. Code § 21091(d); CEQA Guidelines, including but not limited to §§ 15088.5, 15120, 15124, 15126, 15126.1, 15144, and 15151 and applicable judicial decisions including <i>Flanders Foundation v. City of Carmel-by-the-Sea</i> (2012) 202 Cal.App.4th 603, 616-617.</p>	12
<p>B. Unjustified, unreasonable, and misleading use of LDPE reusable bags as basis for entire reusable bag impact analysis.</p> <p>COMMENT: LDPE reusable bags are the best reusable bags for the environment as they only need to be used 2.6 times to offset their greater impacts compared to a plastic carryout bags. In contrast, a cotton bag must be used 173 times. However, LDPE (i.e. polyethylene) reusable bags are rarely provided or used. Nevertheless, BEACON uses LDPE reusable bags and the 2.6 multiplier as the basis for all of its reusable bag calculations in the Draft and Revised Final EIR in order to falsely and misleadingly make the environmental footprint of all types of reusable bags appear to be far more favorable than the reality. (In contrast, the Los Angeles County EIR used a multiplier of 104, which is reasonable acceptable.) <u><i>BEACON has failed to correct the Revised Final EIR.</i></u></p> <p>CEQA VIOLATIONS: Pub. Res. Code § 21080(e)(1) and (2), § 21091(d); CEQA Guidelines, including but not limited to §§ 15088.5, 15120, 15124, 15126, 15126.1, 15144, and 15151.</p>	18

C. Unjustified, unreasonable, and misleading assumption that each reusable bag will be used on average 52 times.

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COMMENT: BEACON uses the 52 multiplier to manipulate the metrics to show no negative environmental impact. When a lower figure is used, the negative environmental impacts of the proposed ordinance are very significant. If the 52 figure is replaced by 2, the CO₂E per year from the production, distribution, and disposal of reusable bags distributed and used in Santa Barbara and Ventura County would be equivalent to:

- CO₂ emissions from 90,510,387 gallons of gasoline consumed
- CO₂ emissions from 1,877,564 barrels of oils consumed
- CO₂ emissions from the electricity use of 120,861 homes for one year
- CO₂ emissions from burning 3,469 railcar's worth of coal

BEACON has failed to address this objection.

CEQA VIOLATIONS: Pub. Res. Code § 21080(e)(1) and (2), § 21091(d); CEQA Guidelines, including but not limited to §§ 15088.5, 15120, 15124, 15126, 15126.1, 15144, and 15151 and applicable judicial decisions including *Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 616-617.

D. False and misleading assertion that non-woven polypropylene reusable bags are recyclable.

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COMMENT: Non-woven polypropylene bags are not recyclable in Santa Barbara or Ventura Counties. In contrast, plastic carryout bags are fully recyclable at plastic bag recycling bins at supermarkets and other large stores with pharmacies, pursuant to AB 2449. Bags placed in those bins are actually recycled. **BEACON asserts that a resin code printed on the bottom of such bags makes them recyclable. That is not true. The code only indicates the type of resin used, not recyclability.**

CEQA VIOLATIONS: Pub. Res. Code § 21080(e)(1) and (2)), § 21091(d); CEQA Guidelines, including but not limited to §§ 15088.5, 15120, 15124, 15126, 15126.1, 15144, and 15151.

<p>E. Failure to disclose that stormwater capture devices and trash excluders prevent plastic bags from reaching the watershed, waterways, and the ocean.</p> <p>COMMENT: The Draft and Revised Final EIRs state: “plastic bag litter enters Santa Barbara and Ventura County rivers, creeks, and watersheds via storm drains,” which is either untrue or partially true and highly misleading. The impact of existing and planned stormwater capture devices, such as the ones that have been or will be installed in the City of Ventura, must be fully disclosed in the EIR. <u><i>BEACON has failed to address this objection. BEACON has used a transparent and cynical ploy to avoid making any response.</i></u></p> <p>CEQA VIOLATIONS: Pub. Res. Code § 21080(e)(1) and (2), § 21091(d); CEQA Guidelines, including but not limited to §§ 15088.5, 15120, 15124, 15126, 15126.1, 15144, and 15151 and applicable judicial decisions including <i>Flanders Foundation v. City of Carmel-by-the-Sea</i> (2012) 202 Cal.App.4th 603, 616-617.</p>	<p>50</p>
<p>F. False and grossly misleading statements regarding marine impacts.</p> <p>COMMENT: BEACON has totally failed to address this objection. This is critically important, because the Revised Final EIR makes false, exaggerated, grossly misleading, and inflammatory claims that may be highly influential with decisionmakers and citizens.</p> <p>CEQA VIOLATIONS: Pub. Res. Code § 21080(e)(1) and (2)), § 21091(d); CEQA Guidelines, including but not limited to §§ 15088.5, 15120, 15124, 15126, 15126.1, 15144, and 15151 and applicable judicial decisions including <i>Flanders Foundation v. City of Carmel-by-the-Sea</i> (2012) 202 Cal.App.4th 603, 616-617 and <i>Save The Plastic Bag Coalition v. City of Manhattan Beach</i> (2011) 52 Cal.4th 155, 175.</p>	<p>55</p>
<p>G. False and misleading assertion that plastic bags are made of petroleum or natural gas.</p> <p>COMMENT: BEACON has used ambiguous wording in its response to obfuscate this issue. BEACON has refused to make the necessary correction. Plastic bags are made of <u><i>waste byproducts</i></u> of oil and natural gas refining, that is ethane or naphtha. Plastic bags are not made of oil or natural gas.</p> <p>CEQA VIOLATIONS: Pub. Res. Code § 21080(e)(1) and (2), § 21091(d); CEQA Guidelines, including but not limited to §§ 15088.5, 15120, 15124, 15126, 15126.1, 15144, and 15151 and applicable judicial decisions including <i>Save The Plastic Bag Coalition v. City of Manhattan Beach</i> (2011) 52 Cal.4th 155, 175.</p>	<p>57</p>

<p>H. Failure to prepare and recirculate revised draft EIR.</p> <p><u>CEQA VIOLATION:</u> CEQA Guidelines § 15088.5 states: “A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification.” Recirculation is also required if: “The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.”</p>	<p>58</p>
<p>I. Failure to attach STPB’s responses to BEACON’s responses to Final Revised EIR</p> <p><u>CEQA VIOLATION:</u> Pub. Res. Code § 21091(d); <i>Flanders Foundation v. City of Carmel-by-the-Sea</i> (2012) 202 Cal.App.4th 603, 616-617.</p>	<p>59</p>

NOTE: The foregoing are only summaries. No waivers of any objections asserted in previous documents or this document are intended. All rights are reserved.

OBJECTION A

(1) FAILURE TO BASE EVALUATION OF IMPACT OF 10-CENT FEE ON PAPER AND REUSABLE BAG USAGE ON SANTA MONICA HIGH SCHOOL SURVEY; AND (2) FAILURE TO FACTOR INTO METRICS PROSPECTIVE PURCHASES OF PLASTIC BIN-LINERS AND OTHER PLASTIC BAGS TO REPLACE PLASTIC CARRYOUT BAGS

SUMMARY OF OBJECTION: In March 2013, Santa Monica High School issued a report on bag choice at Santa Monica grocery stores based on pre-ban and post-ban extensive surveys. (Doc # 306.) The report contains these charts:

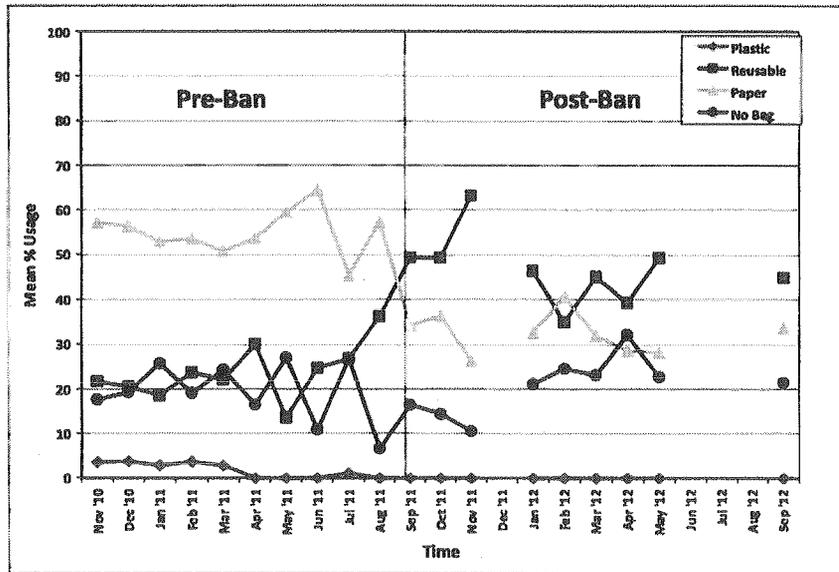


Figure 3. Mean percent usage of different bag choices per month (eco-friendly stores pooled) before and after the plastic bag ban. Gaps represent months no data were collected (see Table 1 below).

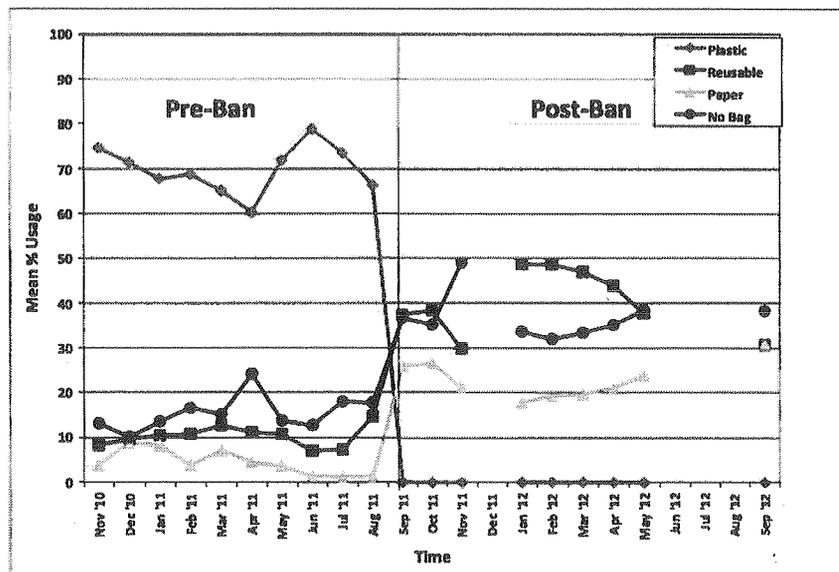


Figure 4. Mean percent usage of different bag choices per month (regular stores pooled) before and after the plastic bag ban. Gaps represent months no data were collected (see Table 1 below).

Figure 3 shows a timeline for Whole Foods and Trader Joe's, which are described in the report as "eco-friendly" stores. Customers at these stores are generally quite affluent and would take steps that they have been told are good for the environment.

Figure 4 shows a timeline for Albertsons, Vons, and Ralphs, which are described in the report as "regular" stores. Customers at these stores are more representative of the general public, and include less affluent customers. There are far more regular-type stores in Santa Barbara and Ventura Counties than eco-friendly stores. Eco-friendly stores would be a tiny percentage of the stores that would be covered by the proposed ordinances.

The Santa Monica report figures are supported by extensive pre-ban and post-ban surveys and constitute substantial evidence. The survey lasted for 19 months and is based on the observation of 50,400 customers. In contrast, Los Angeles County's claims about paper bag reduction are not based on any pre-ban data or surveys and are therefore not substantial evidence.

With respect to "regular" stores, figure 4 is substantial evidence that:

1. Paper bag usage was between 0 and 10% of market share before the Santa Monica ordinance took effect. At times it was very close to zero percent.
2. When the ban took effect in September 2011, paper bag usage increased dramatically to about 27%. It then dropped and rose again to about 30% by September 2012.
3. The paper bag trend line shows that paper bag usage is increasing.
4. When the ban took effect in September 2011, reusable bag usage increased dramatically to about 49%. It then dropped to 30% by September 2012.
5. The reusable bag trend line shows that reusable bag usage is decreasing.

When a ban ordinance takes effect, consumers are initially very responsive. However, over the course of time, the responsiveness wears off. In just one year after the ban took effect, reusable bag usage had dropped by 20%. As of March 2013, reusable bag usage probably dropped further and paper bag usage probably increased further, based on the trend lines.

The authors of the Santa Monica report reach a similar conclusion. They state as follows:

The upward drift in paper bag use at regular stores in 2012 warrants further investigation. Specifically, it would be of interest to ensure grocery stores, one year after the ban, are following the law; are they continuing to disincentivize paper bag use by charging 10 cents per paper bag? Other variables could be contributing as well, including patron apathy, regulars stores undercharging for the number of paper bags used, and stores prematurely removing strategic parking lot and store signage reminding customers to bring in their reusable bags. A study comparing the number of paper bag sold to the volume purchased should establish if any undercharging is occurring, and ultimately, whether regular stores are obeying the law. If undercharging is not occurring, a steeper fee of more than 10 cents may need to be considered.

Based on the foregoing, an EIR must disclose that the 10-cent fee may not be sufficiently high to prevent significant negative environmental impacts resulting from a substantial increase in paper bag usage.

SAVE THE PLASTIC BAG COALITION ("STPB") DEMANDS THAT THE SANTA MONICA REPORT BE DISCUSSED IN A REVISED DRAFT EIR, WITHOUT MISREPRESENTATION OR AMBIGUITY AND IN A TOTALLY NON-MISLEADING WAY. STPB DEMANDS THAT FIGURE 4 OF THE SANTA MONICA REPORT BE INCLUDED IN THE REVISED DRAFT EIR. STPB OBJECTS IF THERE IS A FAILURE TO DO SO.

BEACON response: BEACON responds at page 8-289 of the Revised Final EIR. It states: "The commenter provides data from a study from the City of Santa Monica that states that paper bag usage after a bag ordinance was implemented increased to approximately 30% and that reusable bag usage initially rose to 49% but then dropped to 30%. The commenter further states that the 10-cent fee for paper bags associated with the Proposed Ordinance may not be sufficiently high to prevent environmental impacts related to the increase in paper bag usage."

STPB response:

BEACON has misrepresented STPB's comments in order to make it easier for BEACON to respond. This is what STPB actually said:

With respect to "regular" stores, figure 4 is substantial evidence that:

1. Paper bag usage was between 0 and 10% of market share before the Santa Monica ordinance took effect. At times it was very close to zero percent.
2. When the ban took effect in September 2011, paper bag usage increased dramatically to about 27%. It then dropped and rose again to about 30% by September 2012.
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5. The reusable bag trend line shows that reusable bag usage is decreasing.

When a ban ordinance takes effect, consumers are initially very responsive. However, over the course of time, the responsiveness wears off. In just one year after the ban took effect, reusable bag usage had dropped by 20%. As of March 2013, reusable bag usage probably dropped further and paper bag usage probably increased further, based on the trend lines.

The authors of the Santa Monica report reach a similar conclusion. They state as follows:

The upward drift in paper bag use at regular stores in 2012 warrants further investigation. Specifically, it would be of interest to ensure grocery stores, one year after the ban, are following the law; are they continuing to disincentivize paper bag use by charging 10 cents per paper bag? Other variables could be contributing as well, including patron apathy, regulars stores undercharging for the number of paper bags used, and stores prematurely removing strategic parking lot and store signage reminding customers to bring in their reusable bags. A study comparing the number of paper bag sold to the volume purchased should establish if any undercharging is occurring, and ultimately, whether regular stores are obeying the law. If undercharging is not occurring, a steeper fee of more than 10 cents may need to be considered.

BEACON response: “The study the commenter provides and the statement that the paper bag usage once a bag ordinance is implemented would actually increase to approximately 30% is consistent with the bag use assumptions in the Draft EIR and confirms the reasonableness of the assumption that approximately 30% of the plastic bags currently used in the Study Area would be replaced by recyclable paper bags (see Table 2-2 in Section 2.0, *Project Description*, of the Draft EIR). In regard to reusable bags, the commenter fails to mention the statistic provided in the comment letter (see Figure 4 in the comment letter) that approximately 35% of customers chose to use no bag at all after the ordinance went into effect (an increase of approximately 25% from pre-ordinance conditions). The Draft EIR assumes that approximately 65% of plastic bags would be replaced by approximately 65% reusable bags after implementation of the Proposed Ordinance (see Table 2-2 of the Draft EIR). As described in Response 1.21, this is considered a reasonable assumption and is intended to provide a worst-case scenario related to environmental impacts. As such, if approximately 35% of the customers did not use any type of carryout bag, impacts would actually be reduced compared to the analysis in the Draft EIR. This confirms that the Draft EIR provides a reasonable, worst case approach to evaluating impacts related to switching from plastic carryout bags to either reusable or recyclable paper bags.”

STPB response:

The following table approximately summarizes the changes in Santa Monica caused by the ban and the 10-cent paper bag fee at Figure 4 stores.

TYPE OF BAG	BEFORE BAN	AFTER BAN	CHANGE
Plastic	79%	0	-79%
Paper	1%	24%	+23% and increasing
Reusable	8%	38%	+30% and decreasing
No bag	12%	38%	+26%

The Draft and Revised Final EIRs do not show the net increase in paper and reusable bag usage and the changes that are continuing to occur: paper bag usage increasing and reusable bag usage decreasing. STPB objects to those omissions. The Santa Monica tables must be included in the EIR, so that the public and decision-makers can see the percentage changes and the trend lines.

Paper bag and reusable bag usage combined increased by a whopping 53%! Paper bags and underused reusable bags are much worse for the environment than plastic bags. We recognize that the 79% drop in plastic bag usage and the 26% increase in no bag usage must be offset against the 53% increase in combined paper and reusable bag usage. However, this is subject to a counter-offset for the increase in purchases of plastic bags for bin liners and other purposes, as occurred in Ireland and South Africa, which is a calculation that never appears in the Draft or Final Revised EIR. (Docs. ## 901 and 307.) STPB objects to that omission.

Once the foregoing facts are taken into account, will the ordinance result in significant negative environmental impacts? That depends on the assumptions made about the impacts of reusable bags compared to "single-use" plastic bags for which the Draft and Revised Final EIR dishonestly use a ratio of 2.6, as discussed on Objection B below, and how many times each reusable bag is reused, as discussed in Objection C below. By using false and unreasonable assumptions, BEACON has manufactured a response that supports its predetermined goals of showing that the proposed ordinances will not result in significant negative environmental impacts.

BEACON response: "The commenter provides a South African report and states that by banning plastic bags, there would be an increase in the number of trash bin liners purchased as people would no longer be able to use plastic carryout bags to line their trash cans at home. The commenter further states that impacts that result from the increase of plastic trash liners needs to be included in the EIR. See Response 1.47. As stated above, there may likely be an increase in plastic trash liners used in the Study Area. However, these types of trash bags are intended for such use and are not the type of bags that generally end up as litter (which impact biological resources, clog storm drains, and enter the marine environment). The objective of the Proposed Ordinance is intended to reduce existing impacts associated with plastic carryout bags including those impacts related to biological resources (plastic bag litter affecting wildlife species and habitat) and water quality (plastic bag litter clogging storm drains and entering creeks and waterways within the Study Area)."

STPB response: The fact that such replacement bags are less likely to end up as litter is an insufficient response. Litter is only one aspect of the environmental picture. What about greenhouse gases and other non-litter environmental impact metrics? The impact of increase plastic bag purchases for bin liners and other purposes must be factored into those metrics. STPB objects to the failure to do so.



A 10-cent fee is not an effective deterrent to ensure a sufficient suppression of paper bag usage. Other cities such as San Jose have opted for a 25-cent fee, which should be more effective.

Photo taken at Bristol Farms in the City of West Hollywood on March 7, 2013. The plastic bag ban in West Hollywood took effect in February 2013.

OBJECTION B
UNJUSTIFIED, UNREASONABLE, AND MISLEADING
USE OF LDPE REUSABLE BAGS AS BASIS FOR
ENTIRE REUSABLE BAG IMPACT ANALYSIS

SUMMARY OF OBJECTION TO DRAFT EIR:

The Draft EIR asserts that a switch to reusable bags instead of paper bags would have an insignificant or a positive environmental impact, because LDPE (i.e. plastic) reusable bags are "one of the most common types of reusable bags." This is a falsehood. LDPE reusable bags are a tiny percentage of reusable bags. If there is a major switch to reusable bags, it will be primarily PP reusable bags. STPB submitted extensive photographic evidence that few stores carry LDPE reusable bags in areas where plastic bags have been banned. PP, canvas, and cloth reusable bags, which have a much greater negative, impact on the environment than LDPE.

An LDPE reusable bag needs to be used only 2.6 times to offset its greater negative environmental impact compared to a "single-use" plastic carryout bag. Other types of reusable bags must be used between 104 and 173 times. The author of the DEIR *cynically and deceptively* chose the best reusable bag for the environment, that is an LDPE reusable bag, as being representative of all or a majority of reusable bags. The DEIR uses the figure of 2.6 for all of the calculations regarding reusable bags throughout the Draft EIR.

BEACON'S RESPONSE:

BEACON acknowledges "the analysis uses the LDPE carryout bag as a representation of reusable bags in evaluating GHG impacts." However, BEACON states: "There is no known available Life Cycle Assessment that evaluates all types of reusable bags (canvas, cotton, calico, etc.) with respect to potential GHG emissions."

STPB'S RESPONSE:

BEACON's assertion that there is no known available Life Cycle Assessment that evaluates all types of reusable bags with respect to potential GHG emissions *is simply untrue*. STPB provided LCA's including the British Government report (Docs. # 406, 407) and the Los Angeles County EIR (Doc. 1). STPB even included the following table and chart from the British Government LCA in its objections:

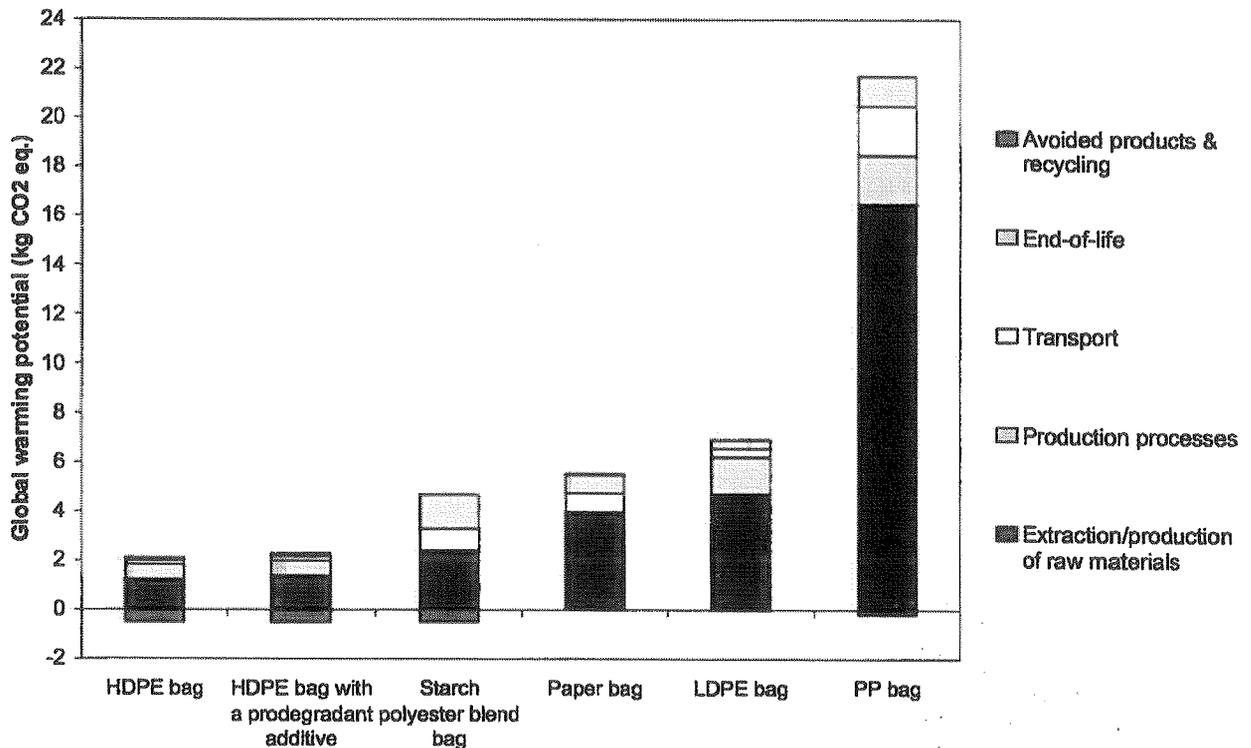
NUMBER OF TIMES THAT ALTERNATIVE BAGS HAVE TO BE USED TO PRODUCE LESS GLOBAL WARMING THAN PLASTIC BAGS

Plastic bag = 1

Type of carrier	HDPE bag (No secondary reuse)	HDPE bag (40.3% reused as bin liners)	HDPE bag (100% reused as bin liners)	HDPE bag (Used 3 times)
Paper bag	3	4	7	9
LDPE bag	4	5	9	12
Non-woven PP bag	11	14	26	33
Cotton bag	131	173	327	393

Based on the above table, if a consumer uses a cotton bag only 130 times and then discard it, more global warming will have been created than if 130 conventional plastic carryout bags had been used. If a consumer has two cotton reusable bags and discards one of them without reusing it, the other would have to be used 262 times.

“The cotton carrier bag is not shown in [the following table], because its [global warming potential] is more than ten times that of any other carrier bag.” (British LCA at 33)



BEACON'S RESPONSE:

“Further, the study that utilizes the 2.6 per bag rate assumption is from the Ecobilan (2004) and the Scottish Report (AEA Technology, 2005) that the commenter references in his previous comments (see Comment # 11 and Comment #24) and recommended for use in the Draft EIR analysis. As described in Response 1.77, this methodology is consistent with the greenhouse gas impact analysis contained in other CEQA documents pertaining to bag ordinances. This rate compared to an HDPE single-use plastic bag (2.6 times) is related to an LDPE bag being used once and then disposed.”

STPB'S RESPONSE:

This is irrelevant. LDPE reusable bags may be common in Scotland and France. Stephen Joseph has witnessed bag use in Britain and France and the overwhelming majority of reusable bags are LDPE in those counties. However, in California as STPB's photographs many show, LDPE reusable bags are a relative rarity.

BEACON'S RESPONSE:

“In regard to the LDPE reusable bags being a common reusable bag type, the Final EIR has been edited as follows on page 4.1-9 to remove ‘one of the most common types.’”

STPB'S RESPONSE:

This change is not sufficient to address and meet the objection. *The Final EIR still uses the 2.6 figure throughout the document, including with respect to GHG emissions.*

BEACON'S RESPONSE:

In regard to using a GHG impact rate of 104 times that of a HDPE single-use carryout bag, while this rate appears to be unreasonably exaggerated and unreasonable in comparison to the 2.6 rate (as described above), even if it were used as the rate for GHG impact, as shown in the table below, the net increase of GHG emissions in the Study Area as a result of the Proposed Ordinance (approximately 0.0357 metric tons CO₂e per person per year) would not exceed the threshold of significance (4.6 metric tons per person per year) and thus the impact would remain less than significant (the same as in the Draft EIR using the rate of 2.6 for LDPE bags).

STPB'S RESPONSE: The assertion is incorrect for three reasons.

First, the Los Angeles County EIR uses the 104 figure, so it is not unreasonably exaggerated and unreasonable

Second, the issue is not emissions in the Study Area. It is emissions anywhere. In *Save The Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, the Supreme Court stated:

As noted above, it is also established that CEQA review includes the impacts a project may have in areas outside the boundaries of

the project itself.

(*Id.* at 175.) The public and decisionmakers must be informed about GHG emissions beyond the outside the boundaries of the project itself. STPB is not asserting that GHG emissions *in the Study Area* will increase beyond some fictional level of significance. Moreover, GHG emissions are cumulative.

Second, the table below provided by BEACON based on a 104 times factor *assumes that reusable bags will be used on average at least 52 times*. STPB has objected to that baseless and speculative assumption. Based on the 52 times assumption, BEACON's table assumes that

**Estimated Greenhouse Gas Emissions from Carryout Bags in Study Area
with Implementation of the Proposed Ordinance Using a GHG Impact Rate of 104 for
Reusable Bags**

Manufacture, Use and Disposal					
Bag Type	Proposed # of Bags Used per Year ¹	GHG Impact Rate per Bag	GHG Impact Rate (metric tons CO ₂ E)	CO ₂ E per year (metric tons)	CO ₂ E per Person (metric tons) ⁵
Single-use Plastic	32,912,070	1	0.04 per 1,500 bags ²	878	0.0007
Single-use Paper	197,472,422	2.97	0.1188 per 1,000 bags ³	23,480	0.0189
Reusable	8,228,018	104	4.16 per 1,000 bags ⁴	34,229	0.276
<i>Subtotal</i>				<i>58,567</i>	<i>0.047</i>
Washing					
Bag Type	# of Loads per Year ²	Electricity Use Per Load (kW)	Total Electricity Use Per Year (kW)	CO ₂ E per year (metric tons) ³	CO ₂ E per Person (metric tons)
Reusable	2,598,321	3.825	9,938,578	3,279	0.0026
<i>Subtotal</i>				<i>3,279</i>	<i>0.0026</i>
Total GHG Emissions from Proposed Ordinance				61,846	0.05
Existing GHG Emissions				17,553	0.0142
Net Change (Total minus Existing)				44,293	0.0357

If each and every reusable bag distributed to the public is used on average twice instead of 52 times, the number of reusable bags would increase from 8,228,018 to 213,928,468. That is 889,954 CO₂E per year (metric tone) just from reusable bags. According to the U.S. Environmental Protections Agency, this is equivalent to:

- CO₂ emissions from 90,510,387 gallons of gasoline consumed
- CO₂ emissions from 1,877,564 barrels of oils consumed
- CO₂ emissions from the electricity use of 120,861 homes for one year
- CO₂ emissions from burning 3,469 railcar's worth of coal

(See Doc. #423 submitted herewith.) The assertion that this is not significant is absurd. Even if each and every reusable bag distributed to the public is used on average 20 times, meaning that the above impacts are reduced by 90%, the impacts are still huge and significant.

Finally, the Final EIR still uses the 2.6 figure in every table where impacts of reusable bags are measured. The figures have not been changed to 104. Therefore, STPB objects.

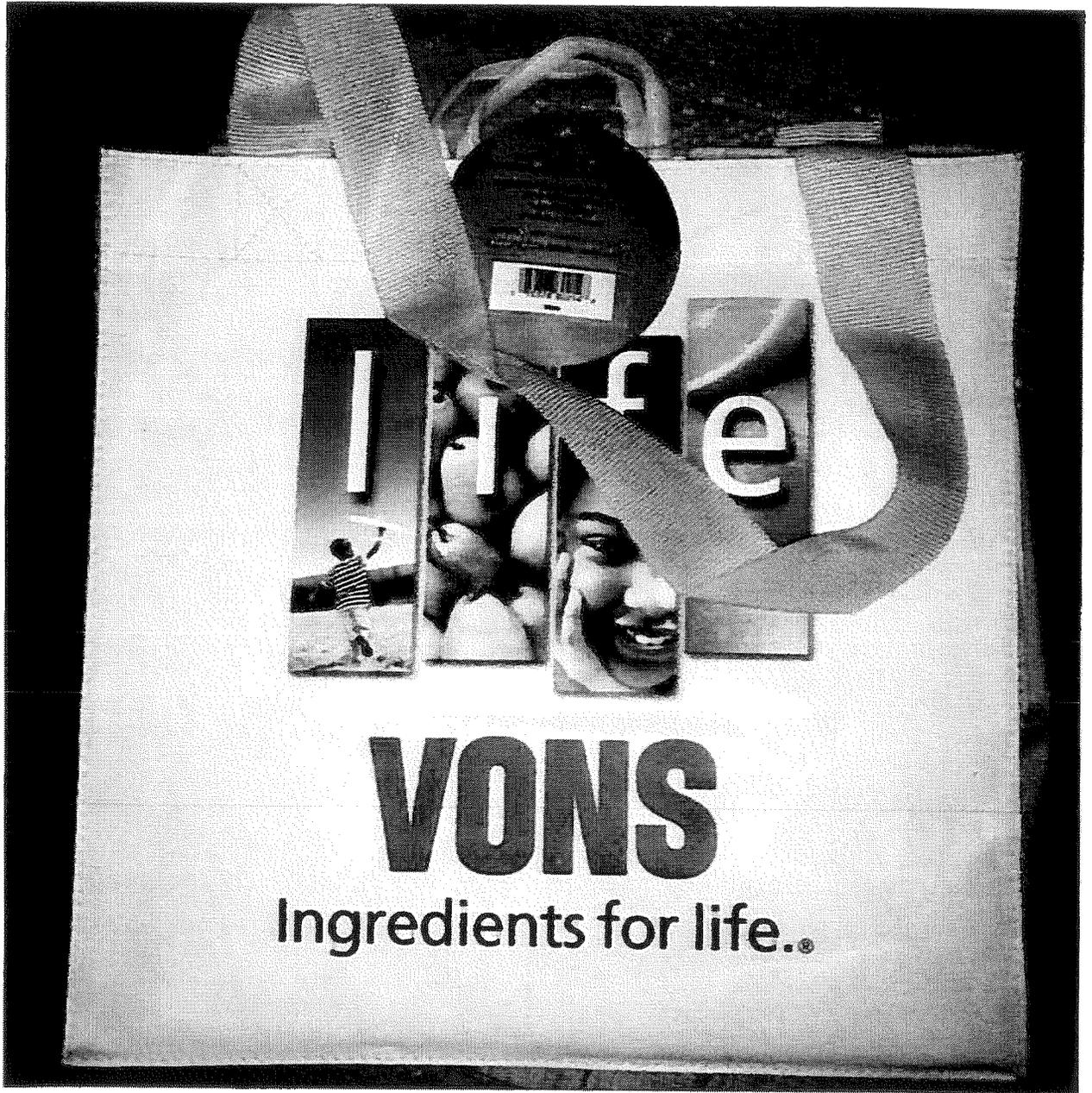
**THE FOLLOWING PAGES CONTAIN PHOTOGRAPHS
WITH CAPTIONS SENT TO BEACON SHOWING THAT LDPE
REUSABLE BAGS ARE RARELY OFFERED AND USED
WHEN PLASTIC BAGS ARE BANNED AND A FEE IS
IMPOSED ON PAPER BAGS.**

**SEE ALSO EXHIBIT K ATTACHED HERETO WHICH IS THE
DECLARATION OF PETER M. GRANDE REGARDING
RARITY OF LDPE REUSABLE BAGS IN THE
MARKETPLACE.**

(The declaration was document BEA 422 submitted to BEACON.)



**The checkout at Vons in Long Beach, after plastic bags were banned.
Photo taken by Stephen Joseph on October 24, 2012.
No LDPE or HDPE reusable bags at the checkout.**



**A Vons reusable bag available at the checkouts.
This is not an LDPE or HDPE reusable bag.
It is made in China.**

Distributed by Safeway Inc.
P.O. BOX 99, Pleasanton, CA 94566-0009

**Quality and Satisfaction Guaranteed
or Your Money Back**

1-877-723-3929

PRODUCT OF CHINA



The label on the Vons bag shown on the previous page. This shows that major supermarket chains are providing these kinds of bags to consumers:

Safeway
Vons
Dominicks
Genuardis
Randalls
Tom Thumb
Pavilions
Carr
Safeway.



**The checkout at Ralphs in Long Beach, after plastic bags were banned.
Photo taken by Stephen Joseph on October 24, 2012.
No LDPE or HDPE reusable bags at the checkout.**



**Ralphs reusable bag available at the checkout.
This is not an LDPE or HDPE reusable bag.
It is made in China.**



**The checkout at the Safeway supermarket at 350 Bay Street, San Francisco.
Photo taken by Stephen Joseph on October 24, 2012.
The San Francisco expanded plastic bag ban and 10-cent paper
bag fee requirement took effect on October 1, 2012.
There were no LDPE or HDPE reusable bags at the checkout.**

**REUSABLE BAGS AVAILABLE
AT STORES IN THE
CITY OF WEST HOLLYWOOD
AFTER THE PLASTIC BAG BAN**

**Photographs taken by Stephen Joseph
on March 7, 2013**

**The City of West Hollywood plastic bag ban
took effect at all of these stores on February 20, 2013**

**PAVILIONS SUPERMARKET
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**No reusable bags at the checkout.
Most people were taking and paying for paper bags.**

**PAVILIONS SUPERMARKET
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**This is not an LDPE or HDPE reusable bag.
No LDPE or HDPE reusable bags available at the self-service checkout.**

**PAVILIONS SUPERMARKET
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**These are not LDPE or HDPE reusable bags.
No LDPE or HDPE reusable bags were available anywhere in the store.**

**PAVILIONS SUPERMARKET
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**These are not LDPE or HDPE reusable bags.
No LDPE or HDPE reusable bags were available anywhere in the store.**

**TRADER JOE'S
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**These are not LDPE or HDPE reusable bags.
No LDPE or HDPE reusable bags were available anywhere in the store.**

**CVS
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



No reusable bags of any kind were available at CVS.

**GELSON'S
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



The checkout at Gelson's where a high degree of paper bag usage was in evidence.

GELSON'S
CITY OF WEST HOLLYWOOD
MARCH 7, 2013



These are not LDPE or HDPE reusable bags.

**GELSON'S
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



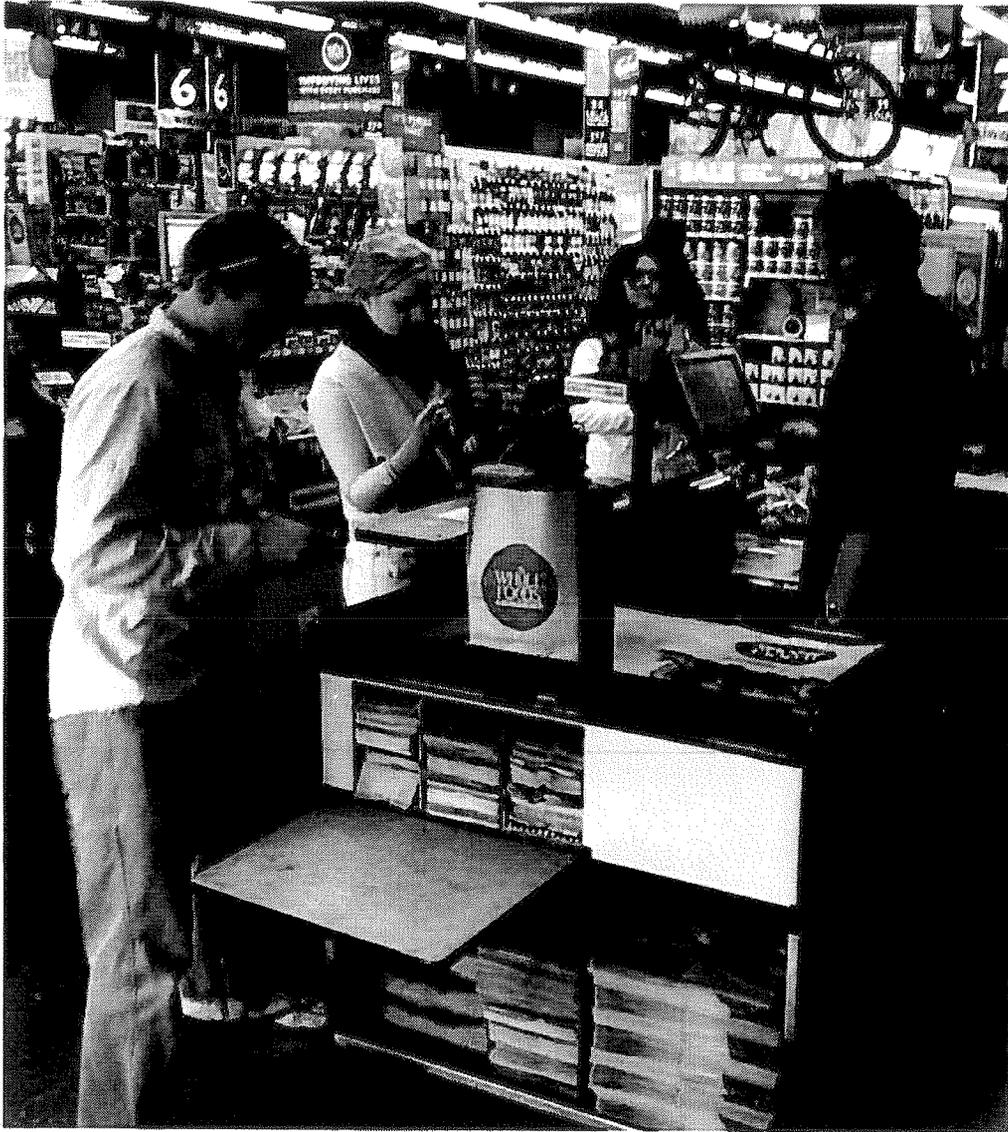
**These are LDPE reusable bags.
These bags are only available in one other
Gelson's store – the one in Calabasas.**

**WHOLE FOODS
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**These are not LDPE or HDPE reusable bags.
No LDPE or HDPE reusable bags were available anywhere in the store.**

**WHOLE FOODS
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



Paper bags at the ready at the Whole Foods store checkout.

**RALPHS
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



LDPE reusable bags are available at the checkout at this Ralphs.

**BRISTOL FARMS
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**These are not LDPE or HDPE reusable bags.
No LDPE or HDPE reusable bags were available anywhere in the store.**

**BRISTOL FARMS
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**These are not LDPE or HDPE reusable bags.
No LDPE or HDPE reusable bags were available anywhere in the store.**

**BRISTOL FARMS
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



The majority of customers were paying for paper bags.

**BRISTOL FARMS
CITY OF WEST HOLLYWOOD
MARCH 7, 2013**



**A 10-cent fee is not an effective deterrent
to ensure a sufficient suppression of paper bag usage.
Other cities such as San Jose have opted for a 25-cent fee,
which should be more effective.**

OBJECTION C
UNJUSTIFIED, UNREASONABLE, AND MISLEADING ASSUMPTION THAT
EACH REUSABLE BAG WILL BE USED ON AVERAGE 52 TIMES

SUMMARY OF OBJECTION TO DRAFT EIR:

The Draft EIR states: "Although a reusable bag is designed to be used up to hundreds of times, it is conservatively assumed that a reusable bag would be used by a customer once per week for one year (52 times)." There is no basis for such an assertion. It is just guesswork. The analysis must be based on a reasonable worst case scenario, which is that reusable bags may not be used on average a sufficient number of times to offset their greater negative environmental impacts compared to a plastic or paper carryout bag.

An assumption of two uses per reusable bag would be the highest reasonable worst-case scenario number for reusable bag usage. STPB objects to any higher multiplier that two being used for the purpose of determining the *possible* significant environmental impacts of the proposed ordinance. If a reusable bag can be used 125 times, that does not mean that it *will* be used 125 times, or 52 times per year. In fact, reusable bags are difficult or impossible to wash, except for LDPE and HDPE reusable bags which can be easily wiped clean and cloth bags which can be put in a washing machine. PP bags cannot be washed in a washing machine. See photo below.

BEACON'S RESPONSE:

"Further, in regard to the number of assumed uses of a reusable bag in the Draft EIR, please see Response 1.21 which describes why approximately 52 uses for a reusable bag is considered a conservative and reasonable assumption for the Draft EIR analysis."

STPB note: Response 1.21 does not address why approximately 52 uses for a reusable bag is considered a conservative and reasonable assumption.

Response 1.21 states: "The assumption that reusable bags would replace 65% of plastic bags resulting from the Ordinance, and that bags are used 52 times per year is a conservative estimate. Please see responses 1.17 and 1.18 regarding these estimates."

Responses 1.17 and 1.18 do not address the issue at all.

STPB'S RESPONSE:

BEACON has simply pulled the 52 times figure out of the air, so as to have a high enough number to justify its assertion that the ordinance would not result in great negative environmental impacts. This is cynical manipulation of the metrics by BEACON. There is absolutely no substantial evidence supporting the 52 times assumption.



*A polypropylene (PP) reusable bag after it has been washed in a washing machine.
A PP reusable bag cannot be kept clean and reused more than a handful of times.*

OBJECTION D
FALSE AND MISLEADING ASSERTION THAT NON-WOVEN
POLYPROPYLENE REUSABLE BAGS ARE RECYCLABLE

SUMMARY OF OBJECTION TO DRAFT EIR:

The Draft EIR asserts that non-woven polypropylene reusable bags are recyclable. reusable bags” are “recyclable products.” With the exception of plastic reusable bags (i.e. LDPE and HDPE), reusable bags are not recyclable. This is a major deception on an issue of great importance, especially as plastic carryout bags which the proposed ordinance would ban are totally recyclable. The public must be told in the DEIR that all reusable bags, with the exception of LDPE and HDPE reusable bags, are not recyclable. In contrast, plastic carryout bags are recyclable at plastic bag recycling bins at supermarkets and large retail stores with pharmacies, as required by AB 2449. This is a significant environmental impact that must be disclosed in the EIR.

BEACON'S RESPONSE:

The commenter objects to the description of reusable bags as recyclable products. The commenter is mistaken in his assumption that the Draft EIR claims that all reusable bags are recyclable. The only reference to recyclability for reusable bags is related to non-woven polypropylene bags on page 2-6 of the Draft EIR as these types of bags are made of generally a form of Polypropylene which is rated a “5” on the Society of Plastics Industry’s (SPI) spectrum of recycled codes.



STPB'S RESPONSE:

BEACON's response is unresponsive. The issue is whether decisionmakers and the public must be told in the EIR (i) that plastic carryout bags are recyclable at plastic bag recycling bins at supermarkets and large retail stores with pharmacies in Santa Barbara and Ventura Counties, as required by AB 2449; and (ii) that reusable bags, with the exception of LDPE and HDPE reusable bags, are not recyclable in Santa Barbara and Ventura Counties. The Final EIR does not make any such disclosure.

The fact that non-woven polypropylene bags are rated 5 on the SPI spectrum of recycled codes is irrelevant. They cannot be recycled anywhere in Santa Barbara or Ventura Counties. They are not accepted for recycling in any recycling bin or in curbside recycling Santa Barbara or Ventura Counties. The burden is on BEACON to prove that they are accepted for recycling, if that is what BEACON maintains. “CEQA places the burden of environmental investigation on government rather than the public.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d

296, 311.) SPI has issued a guide to correct use of the resin codes, which is submitted herewith. (Doc # 424.) SPI states in that document:

The RICs are used solely to identify the plastic resin used in a manufactured article....

The code was not intended to be - nor was it ever promoted as - a guarantee to consumers that a given item bearing the code will be accepted for recycling in their community. Much of the recent legal and regulatory activity surrounding use of the code has focused on uses that have been construed as making such a guarantee. This scrutiny is part of a larger effort by the FTC and State Attorneys General to crack down on the use of "false and misleading environmental claims" in product marketing.

As we can see, BEACON is clearly wrong about the resin code.

FTC regulations state that it is deceptive to misrepresent, directly or by implication, that a product or package is recyclable. (16 C.F.R. § 260.12(a).) The FTC addresses the issue of confusion about the resin code as follows 16 C.F.R. § 260.12(d):

Example 2: A nationally marketed plastic yogurt container displays the Resin Identification Code (RIC) 6 (which consists of a design of arrows in a triangular shape containing a number in the center and an abbreviation identifying the component plastic resin) on the front label of the container, in close proximity to the product name and logo. This conspicuous use of the RIC constitutes a recyclable claim. *Unless recycling facilities for this container are available to a substantial majority of consumers or communities, the manufacturer should qualify the claim to disclose the limited availability of recycling programs.* If the manufacturer places the RIC, without more, in an inconspicuous location on the container (e.g., embedded in the bottom of the container), it would not constitute a recyclable claim.

OBJECTION E
FAILURE TO DISCLOSE THAT
STORMWATER CAPTURE DEVICES AND TRASH EXCLUDERS
WILL PREVENT PLASTIC BAGS FROM
REACHING THE WATERSHED, WATERWAYS, AND THE OCEAN

SUMMARY OF OBJECTION TO DRAFT EIR:

The Draft EIR states “plastic bag litter enters Santa Barbara and Ventura County rivers, creeks, and watersheds via storm drains,” which is not true. Full capture devices and trash excluders prevent plastic bags from entering Santa Barbara and Ventura County rivers, creeks, and watersheds. This is a very significant issue for the public. They are being told by BEACON that plastic bags are entering the river and marine environments, but it’s a false assertion.

BEACON’S RESPONSE:

“The commenter states that the Draft EIR does not disclose that stormwater capture devices are preventing and will prevent plastic bags from reaching the “LA River, Ballona Creek and the Ocean”. The Los Angeles River and Ballona Creek are not located within the Study Area. Please see Response 1.28 related to stormwater capture devices and trash excluders in the Study Area.”

STPB’S RESPONSE:

This objection was designated as Objections ## 4 and 8 in STPB’s March 25, 2013 objections.

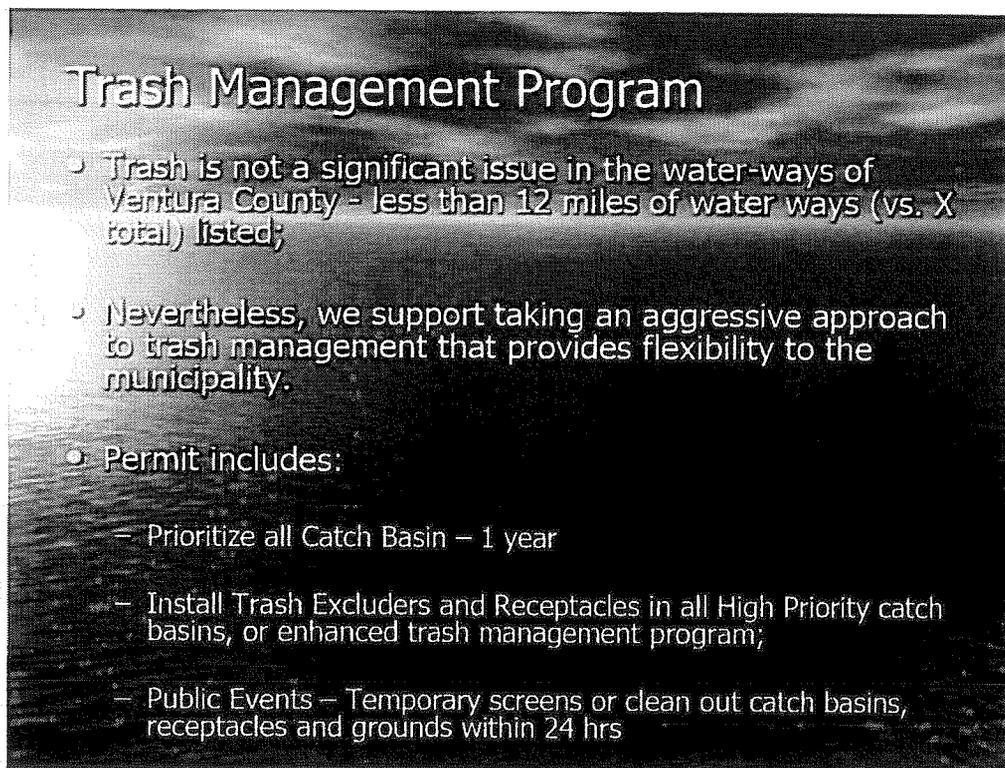
STPB concedes that Objection # 4 was mistitled in that it referred to the Los Angeles area, but the content and substance of the objection relates to Ventura and Santa Barbara Counties. To the extent that the title requires correction, it is hereby corrected. **Objection # 8 which is substantially identical was not mistitled.** In its response to Objection #8, BEACON’s response was to refer to its response to Objection # 4. **This is a purely dishonest and cynical attempt by BEACON to avoid the issue.** These are the words used by STPB in its March 25, 2013 objections:

OBJECTION # 4: DEIR at 4.4-5 identifies programs and regulations in place to reduce trash and pollution in local waterways including the following:

1. The Ventura River Trash Total Maximum Daily Load (TMDL), (Los Angeles-RWQCB Resolution No. R4-2007-007),
2. The Revolon Slough/ Beardsley Wash Trash TMDL (LA-RWQCB Resolution No. R4-2007- 008),
3. The Malibu Creek Watershed Trash TMDL (LA-RWQCB Resolution No. R4-2008-007),
4. The Santa Monica Bay Nearshore and Offshore Debris TMDL (LA-RWQCB Resolution No. R10-010), and
5. The Waste Discharge Requirements for Storm Water and Non-stormwater Discharges from the Municipal Separate Storm Sewer Systems within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein (Ventura MS4 Permit), LA-RWQCB Order R4-2010-0108, NPDES Permit No. CAS004002.

Despite identification of TMDL programs in Ventura and Santa Barbara Counties, STPB objects to the fact that nowhere in the DEIR is it disclosed that plastic bags will be prevented from entering county rivers and creeks and the ocean due to the installation of trash excluders on storm drain outfalls.

OBJECTION # 8: The Watershed Protection District in a presentation to the Calleguas Creek Watershed Steering Committee regarding the Ventura County Stormwater Quality Management Program and the Ventura County Municipal Stormwater Permit on 15 July, 2009 showed the following slide:



Trash Management Program

- Trash is not a significant issue in the water-ways of Ventura County - less than 12 miles of water ways (vs. X total) listed;
- Nevertheless, we support taking an aggressive approach to trash management that provides flexibility to the municipality.
- Permit includes:
 - Prioritize all Catch Basin – 1 year
 - Install Trash Excluders and Receptacles in all High Priority catch basins, or enhanced trash management program;
 - Public Events – Temporary screens or clean out catch basins, receptacles and grounds within 24 hrs

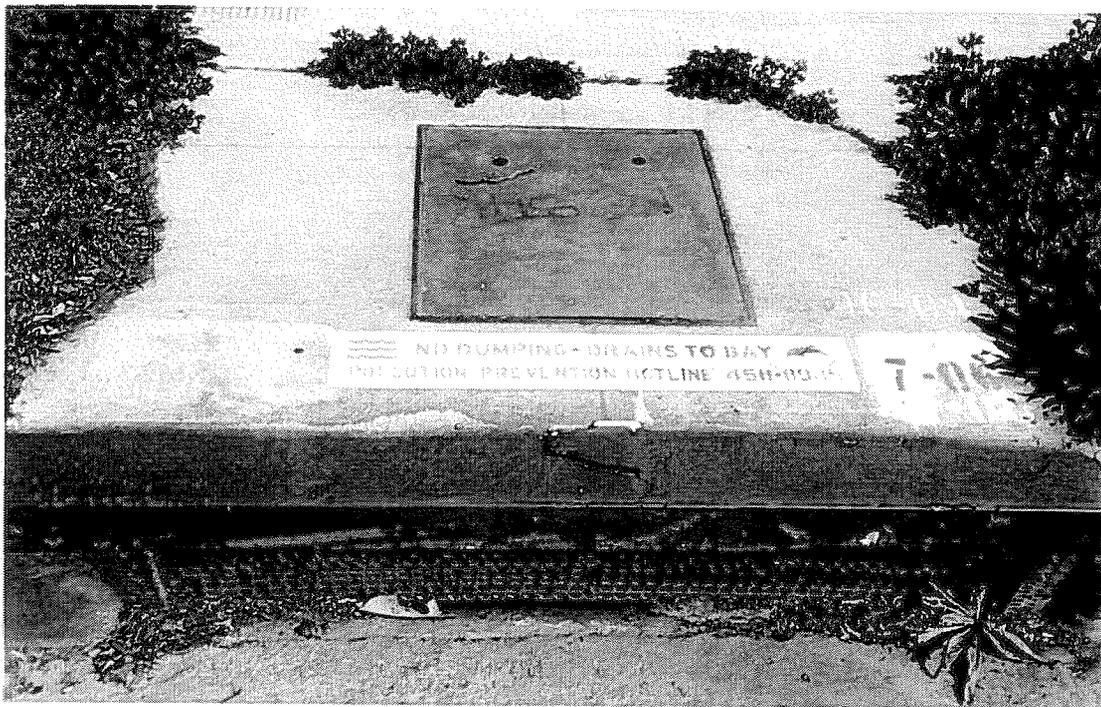
According to the U.S. Environmental Protection Agency, the Ventura River, the Revolon Slough/Beardsley Wash, and Malibu Creek in Ventura County are examples of water ways that have been designated as an impaired water bodies due to the large volume of trash it receives from the watershed. To address this problem a Total Maximum Daily Load (TMDL), which establishes baseline trash loads to the river from the watershed, has been incorporated into the area stormwater permits.

As STPB pointed out in its March 25, 2013 objections, full capture devices prevent any plastic bags reaching a watershed, rivers, or the ocean through a storm drain system as in Los Angeles.

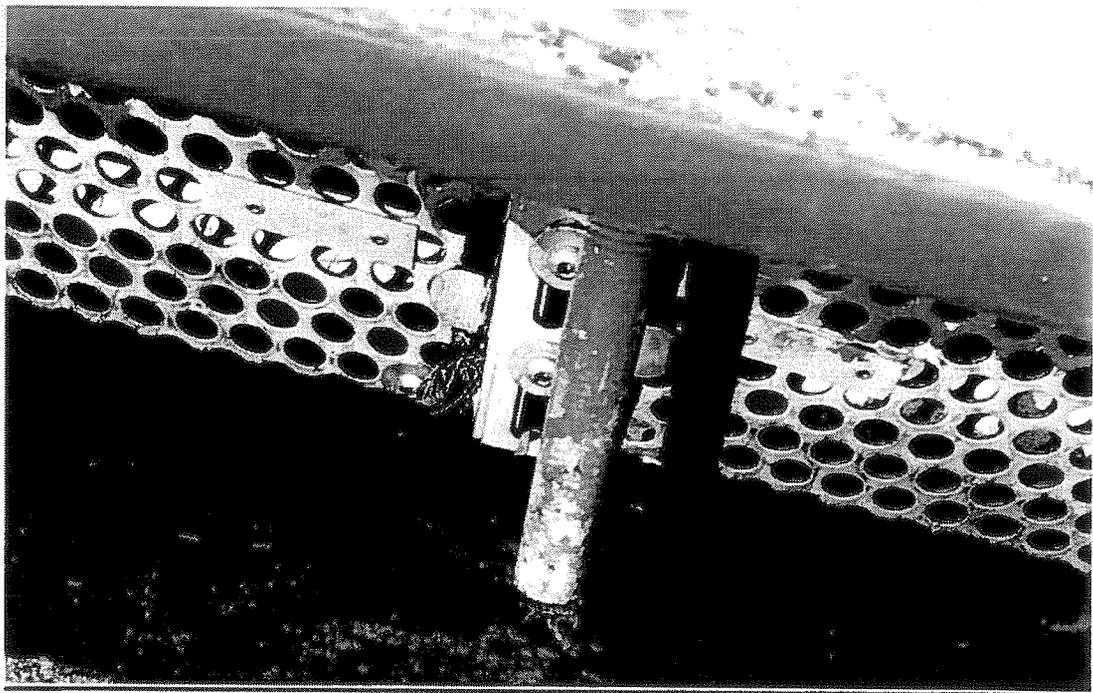
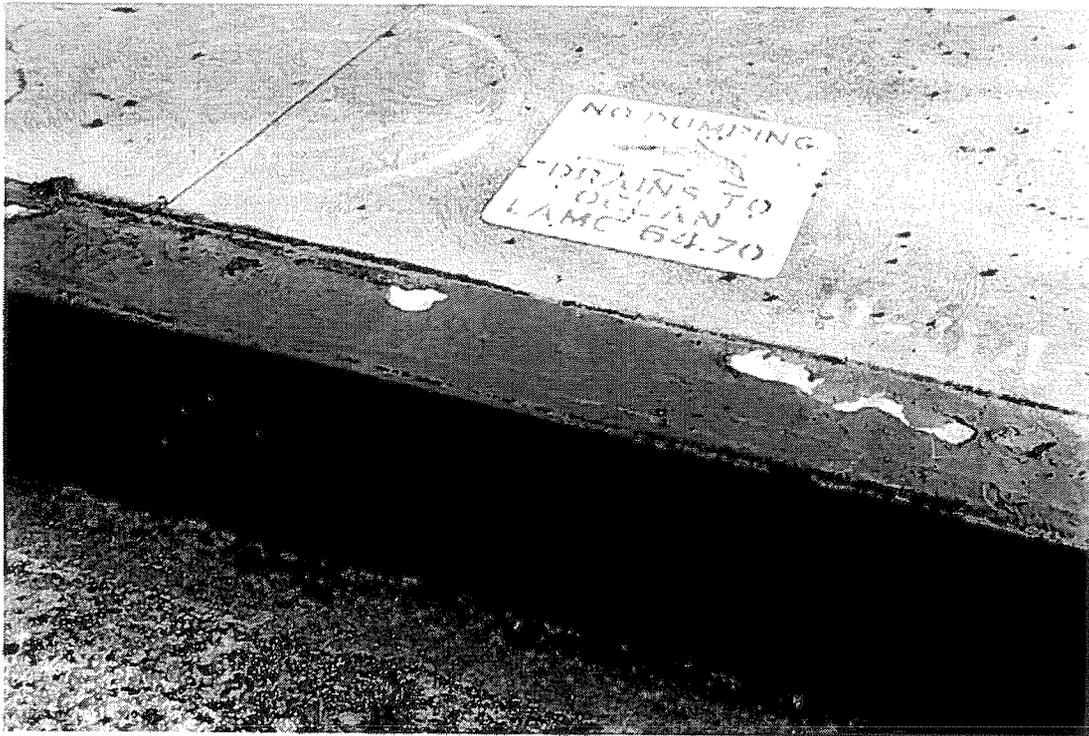
The Final EIR deceives decision-makers and the public into believing that “plastic bag litter enters Santa Barbara and Ventura County rivers, creeks, and watersheds via storm drains.” They must be told in the EIR that existing and planned full capture devices and trash excluders are preventing or will prevent this from happening.

Further, at the March 13, 2012 Santa Barbara City Council meeting, City staff admitted that they find plastic bags only occasionally and that the litter data is “inconclusive.” Plastic bag litter is not a significant problem in the City of Santa Barbara.

STPB strongly objects to the failure to disclose these facts in the EIR.



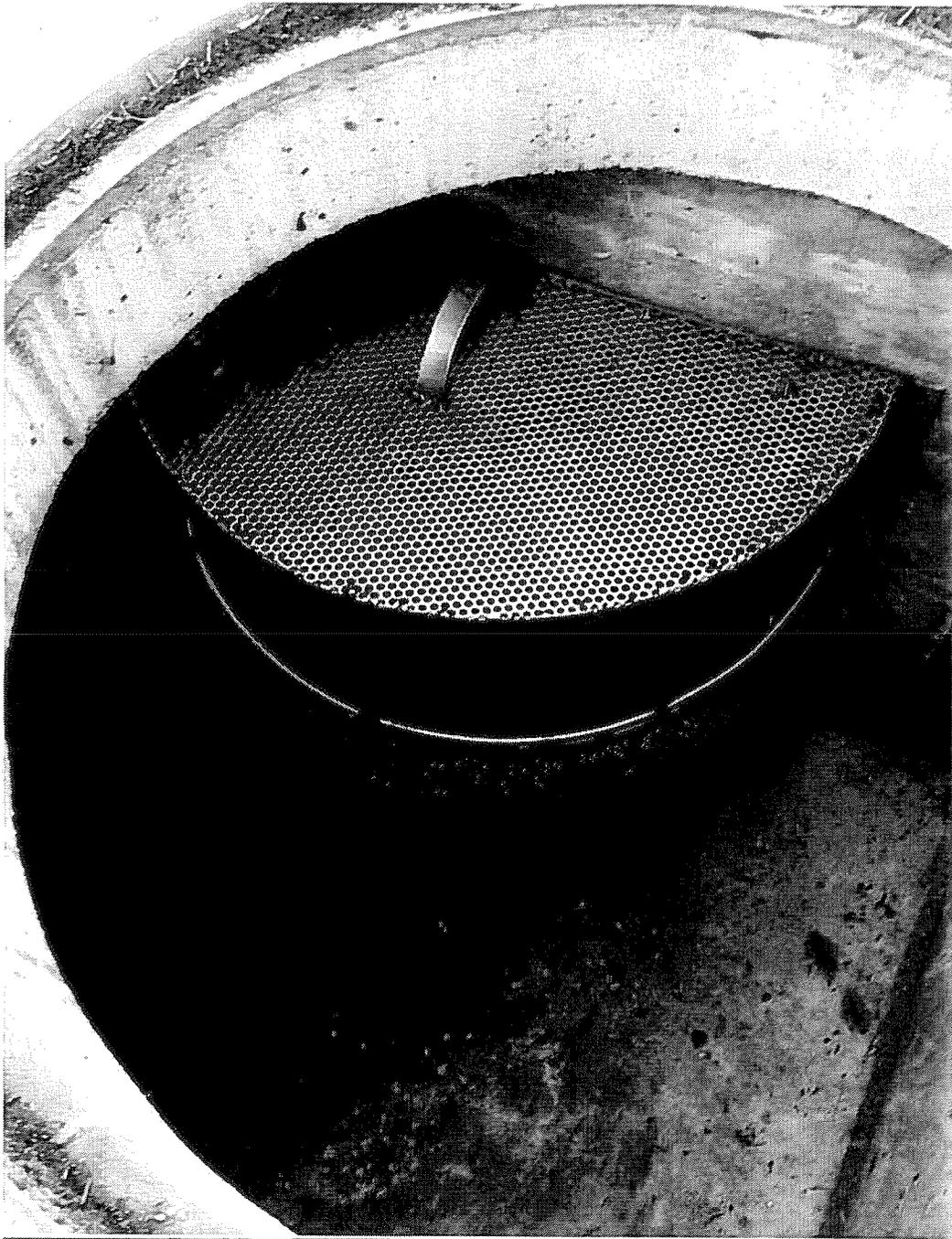
A full capture device protecting a stormdrain system.



The above two photographs are of the same City of Los Angeles capture device.
It has a mechanical clearing mechanism.
(Photos taken by Stephen Joseph in Century City on 2-27-12)

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CITY OF VENTURA TRASH EXCLUDER



This is the type of trash excluder that has been installed and is being installed inside catch basins along city streets in the City of Ventura. The devices are made of stainless steel and are custom built for each location. Plastic bags cannot slip through the screens. (Information and photograph provided by Chris Palmier, Public Works Supervisor, Environmental Sustainability, City of Ventura.) This must be disclosed in the EIR.

OBJECTION F
FALSE AND GROSSLY MISLEADING STATEMENTS
REGARDING MARINE IMPACTS

SUMMARY OF OBJECTION TO DRAFT EIR:

The DEIR makes false and misleading statements about the marine impacts of plastic bags. The statement will cause decisionmakers and citizens to believe allegation that are not true. STPB submitted a huge amount of substantial evidence that the allegations are untrue.

BEACON'S RESPONSE:

This is BEACON's response in its entirety:

The commenter opines that the Draft EIR contains false and misleading statements regarding marine impacts as plastic bags are not responsible for the "entire universe of plastic debris in the ocean". The commenter states an opinion that these statements are incorrect and that it is important that the EIR be accurate and informative. The commenter also opines that there is no evidence that any wildlife ingest or become entangled in plastic bags, "other than a handful of photographs on the Internet".

The Draft EIR provides detailed information related to how litter from carryout bags (including single-use plastic bags, single-use paper bags and reusable bags) impact the marine environment. The purpose of the Draft EIR is to disclose the impacts associated with the Proposed Ordinance including how the decrease in the number of single-use plastic bags and the increase in the number of recyclable paper and reusable bags would impact biological resources. As shown in the Draft EIR, single-use plastic bags are more likely to become litter than paper and reusable bags and thus have a greater potential to enter creeks, storm drains and ultimately the marine environment. As such, reducing the number of plastic bags and thus reducing the potential for plastic bag litter would result in beneficial impacts related to biological resources. The commenter does not provide any evidence to suggest otherwise.

STPB'S RESPONSE:

BEACON has failed to respond in any meaningful way to STPB's objection. Essentially, BEACON has ignored STPB's comments on the marine impacts issue. BEACON and any city or county using the EIR have therefore forfeited its right to respond at a later date.

In *Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, the court stated:

The City's obligation under CEQA was to explain in the FEIR "in detail giving reasons why" the City was not considering the sale of the residence with a reduced parcel. The City made no effort to satisfy its obligation. Its effort to conjure up reasons now is too late. The purpose of CEQA is to inform both the public and the decisionmakers, before the decision is made, of any reasonable means of mitigating the environmental impact of a proposed project. The City's failure to respond to this significant comment violated its duty under CEQA, and the trial court correctly found that the City's certification of the FEIR was therefore invalid.

(Id. at 616-617, emphasis added.) As in *Flanders Foundation*, the City's "effort to conjure up reasons" why its allegations are based on substantial evidence after certification will be too late.

OBJECTION G
OBJECTION TO ASSERTION THAT PLASTIC BAGS
ARE MADE OF PETROLEUM OR NATURAL GAS

SUMMARY OF OBJECTION TO DRAFT EIR:

The DEIR states: "Single use carryout bags are defined in the Proposed Ordinance as bags made predominantly of plastic derived from either petroleum or biologically-based sources, such as corn or other plant sources, which is provided to a customer at the point of sale." The statement is untrue. Domestic plastic bags are made of ethylene, which is made of ethane which is a waste by-product obtained from domestic natural gas refining.

Approximately 69.3% of plastic bags used in the USA are made in the USA. (The figure was about 85%, but imports have replaced some domestic manufacturing to some extent.)

BEACON'S RESPONSE:

"In regard to the manufacture of plastic bags, the commenter contradicts his assertion about what plastic bags are made of as his description cites both oil and natural gas use in production process (whether domestically using ethylene, which is formed from natural gas, or internationally using naphtha, which is derived from oil or petroleum) of plastic bags."

STPB'S RESPONSE:

BEACON is confusing the issue with ambiguous wording. The public must be told that plastic bags are made from waste-byproducts of oil (imported bags) and natural gas (domestic bags) refining, not from oil and natural gas.

OBJECTION H
FAILURE TO PREPARE AND RECIRCULATE REVISED DRAFT EIR

Pursuant to § 15088.5, STPB demands that the EIR be revised in accordance with STPB's objections and recirculated. The EIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment have been precluded. Further, a new and revised EIR that is responsive to the objections must disclose new significant negative environmental impacts that would result from the project, including but not limited to the reasonable possibility of huge increases in the number of paper bags and non-LDPE and non-HDPE reusable bags that are far worse for the environment than plastic carryout bags.

OBJECTION I
FAILURE TO ATTACH STPB'S RESPONSES TO
BEACON'S RESPONSES TO EIR

The public and decision-makers should see and are entitled to see STPB's responses to BEACON's responses to STPB's objections. (*Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 616-617.) STPB's responses dated April 17, 2013 were submitted to BEACON on April 17 and 18, 2013. Those responses should have been attached to the Final Revised EIR. (STPB is not waiving the objection that a new draft EIR should have been issued and recirculated.)

As things stand, the public and decision-makers will have no idea that BEACON's responses to STPB's objections are incomplete, evasive, intellectually dishonest, and bogus.

At this time, prior to approval by BEACON, STPB demands that *this* document, which includes responses to BEACON's responses regarding the Santa Monica High School survey and the South African report, be attached to the EIR. STPB objects to the failure to do so.

CONCLUSION REGARDING SUBSTANTIVE CEQA OBJECTIONS

STPB wants an honest and complete EIR. Decisionmakers and the public are entitled to the truth. At a Santa Barbara City County meeting in 2012, we offered to work with BEACON on developing an EIR, but our proposal was ignored.

CEQA Guidelines § 15151 states in part: "An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences." The Revised Final EIR and the Addition document unquestionably fail to meet this standard. The Revised Final EIR is disingenuous, intellectual dishonest, deceptive, and grossly misleading. The Revised Final EIR is intended to lead citizens, City Councils, and Board of Supervisors to falsely conclude that the project will have no significant environmental impacts and to falsely conclude that plastic bags are worse for the environment than they are in reality.

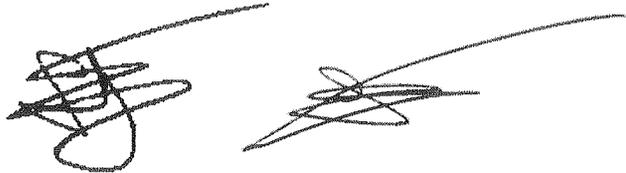
STPB remains willing to work with the City of Santa Barbara on making the necessary corrections to the EIR to ensure that decisionmakers and the public are presented with a truthful and complete document. STPB wishes to avoid litigation if possible.

If the certification is not reversed and invalidated and STPB's objections are not met and corrections made, STPB will file a petition for writ of mandate and other relief in the Superior Court.

All rights are reserved. No rights are waived by any statement or omission herein.

DATE: August 15, 2013

SAVE THE PLASTIC BAG COALITION



By: STEPHEN L. JOSEPH, Counsel

DECLARATION OF STEPHEN L. JOSEPH

I, Stephen L. Joseph, declare:

1. I am an attorney at law, duly admitted and licensed to practice in the State of California.
2. I am counsel for SAVE THE PLASTIC BAG COALITION (“STPB”).
3. I am authorized by STPB to make this verification for and on its behalf.
4. I have read the VERIFIED PETITION FOR WRIT OF MANDATE AND DECERTIFICATION OF EIR UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT and know its contents.
5. The allegations and matters stated in the section of this documents entitled: “OBJECTION TO AND APPEAL OF FAILURE TO GIVE NOTICE OF PLANNING COMMISSION PUBLIC CERTIFICATION HEARING TO COMMENTERS AND OBJECTORS STPB AND ANTHONY VAN LEEUWEN” are true of my own knowledge, except as to any matters that are stated on information and belief or based on the record, and as to those matters I believe them to be true.
6. I did not know that the Planning Commission would be holding a public hearing on the EIR for the single Use Carryout Bag Ordinance on August 8, 2013. I first learned about the hearing on August 12, 2013.
7. Exhibit A attached hereto is a true and correct copy of the cover page and page 114 of objections that I submitted to BEACON on behalf on STPB on or about March 25, 2013.
8. Exhibit B attached hereto is a true and correct copy of an e-mail that I sent to and received from Rincon Consultants. I had sent the e-mail to Rincon Consultants, because I received a notice from them at my previous discontinued San Francisco address.
9. Exhibit C attached hereto is a true and correct copy of an e-mail that I sent to the City of Santa Barbara City Council and Rincon Consultants on July 11, 2013.
10. Exhibit D attached hereto is a true and correct copy of a “Notice Of Planning Commission Hearing And Notice Of Document Availability.” The address shown for

STPB and me on the notices is my previous discontinued San Francisco address.

11. Exhibit E attached hereto is a true and correct copy of the envelope postmarked August 5, 2013 in which the "Notice Of Planning Commission Hearing And Notice Of Document Availability" was forwarded to me by my previous mailbox service in San Francisco
12. Exhibit F attached hereto is a true and correct copy of the City of Santa Barbara Planning Commission Staff Report and "City of Santa Barbara Addition To Final Environmental Impact Report," both of which are dated August 1, 2013. I first saw these copies of August 12, 2013. The documents provided to me by Anthony Van Leeuwen by e-mail on Sunday August 11, 2013.
13. Exhibit G attached hereto is a true and correct copy of the "Planning Commission Finished Agenda" for the August 8, 2013 public hearing.
14. Exhibit H attached hereto is a true and correct copy of an e-mail that I received from Anthony Van Leeuwen on August 11, 2013. Exhibit F attached hereto was attached to the e-mail.
15. Exhibit I attached hereto is a true and correct copy of an e-mail that I received from Anthony Van Leeuwen on August 15, 2013.
16. Exhibit J attached hereto is true and correct copies of e-mails that I sent to the City of Santa Barbara Planning Commission on August 13, 2013.
17. If called upon as a witness to this proceeding, I would and could competently testify thereto under oath.

I declare under penalty of perjury under the laws of the State of California that I have read the foregoing, that the foregoing is true and correct, and that I would be competent to so testify. Executed on August 15, 2013 at Los Angeles, California.



STEPHEN L. JOSEPH

EXHIBIT A

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SAVE THE PLASTIC BAG COALITION

- 1. OBJECTIONS TO BEACON REGIONAL DRAFT EIR ON PROPOSED SINGLE-USE CARRYOUT BAG ORDINANCE FOR SANTA BARBARA AND VENTURA COUNTIES**
- 2. DEMAND FOR REVISION AND NEW FINDINGS OF SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACT**
- 3. DEMAND FOR RECIRCULATION OF REVISED DRAFT EIR AND PROMINENT NOTIFICATION TO THE PUBLIC OF SIGNIFICANT ERRORS IN INITIAL DRAFT EIR**
- 4. NOTICE OF INTENT TO LITIGATE TO ENFORCE CEQA, INCLUDING PETITION FOR WRIT OF MANDATE OR PRELIMINARY INJUNCTION TO REQUIRE RECIRCULATION OF REVISED DRAFT EIR**

March 25, 2013

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
11693 San Vicente Blvd. #150
Los Angeles, CA 90049
Phone: (310) 266-6662
Fax: (310) 694-9067

E-mail: savetheplasticbag@earthlink.net

Website: www.savetheplasticbag.com

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CONCLUSION

All rights are reserved. No rights are waived by any statement or omission herein.

Our society faces critical environmental decisions, including important energy and transportation choices that will have long-term environmental consequences. California's city councils and boards of supervisors will make many of those decisions. Understandably, they will want to make "green" choices. EIRs will play a critical role in ensuring that the facts are not lost in a green fog. As the Court of Appeal stated in *People v. County of Kern* (1974) 39 Cal.App.3d 830:

Only by requiring [an agency] to fully comply with the letter of the law can a subversion of the important public purposes of CEQA be avoided, and only by this process will the public be able to determine the environmental and economic values of their elected and appointed officials, thus allowing for appropriate action come election day should a majority of the voters disagree.

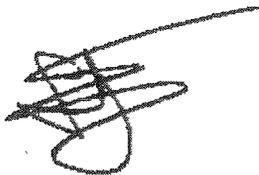
(*Id.* at 842.)

The DEIR is an argumentative and deceptive document designed to support a predetermined conclusion that the proposed ordinance will have no significant negative environmental impacts. The Boards of Supervisors, the City Councils, and the public must be told the truth. STPB will take all appropriate legal steps to ensure that they are told the truth.

REQUEST FOR NOTICES

Pursuant to CEQA including but not limited to CEQA Guidelines §15072(b), I request that you send me, by e-mail and regular mail to the address on the letterhead of this document, any and all responses or findings regarding these objections and all notices regarding the proposed ordinance.

SAVE THE PLASTIC BAG COALITION



By: STEPHEN L. JOSEPH, Counsel

EXHIBIT B

000067

Matthew Maddox <mmaddox@rinconconsultants.com>
To: "Stephen L. Joseph" <savetheplasticbag@earthlink.net>, Joe
Power <JPower@rinconconsultants.com>
RE: Mailing list: change of address

July 1, 2013 3:20 PM

Stephen,

Thanks for the updated address. We are not involved in the City of Los Angeles CEQA document.

But for any future BEACON notices, we will be sure to utilize your new address listed below.

Matthew Maddox, MESM
Senior Program Manager
Rincon Consultants, Inc.
916 204 9142

www.rinconconsultants.com

Environmental Scientists Planners Engineers

□ Please consider the environment before printing this email.

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

From: Stephen L. Joseph [mailto:savetheplasticbag@earthlink.net]

Sent: Monday, July 01, 2013 3:19 PM

To: Matthew Maddox; Joe Power

Subject: Mailing list: change of address

I am on your mailing list for the BEACON and City of Los Angeles CEQA notices, and other cities and counties.

Please note my new address below.

Please confirm that notices will be sent to my new address. Thank you.

Regards,

000068

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
11693 San Vicente Blvd. #150
Los Angeles, CA 90049

Phone: (310) 266-6662

Fax: (310) 694-9067

Website: www.savetheplasticbag.com

E-mail: savetheplasticbag@earthlink.net

WATCH OUR SIX-MINUTE VIDEO "ARE YOU BEING TOLD THE TRUTH ABOUT
PLASTIC BAGS?" AT WWW.PLASTICBAGMOVIE.COM

NOTE: This e-mail and any attachments are confidential and privileged.

000069

EXHIBIT C

000070

Stephen L. Joseph <savetheplasticbag@earthlink.net>

July 11, 2013 11:12 AM



To: SupervisorCarbajal@sbcbos1.org, jwolf@sbcbos2.org, dfarr@countyofsb.org, peter.adam@countyofsb.org, steve.lavagnino@countyofsb.org, hschneider@SantaBarbaraCA.gov, ghose@SantaBarbaraCA.gov, DFrancisco@SantaBarbaraCA.gov, Frank Hotchkiss <FHotchkiss@SantaBarbaraCA.gov>, HWhite@SantaBarbaraCA.gov, RRowse@SantaBarbaraCA.gov, CMurillo@SantaBarbaraCA.gov, steve.bennett@ventura.org, damon.wing@ventura.org, Wendy.Delgadillo@ventura.org, supervisor.foy@ventura.org, john.zaragoza@ventura.org, "Ledbetter, Michael" <Ldbtr@co.santa-barbara.ca.us>, "Ready, Kevin" <ready@co.santa-barbara.ca.us>, mike.tracy@cityofventura.net, Brian.Brennan@ventura.org, bbrennan@ci.ventura.ca.us, Matthew Maddox <mmaddox@rinconconsultants.com>, Gerald Comati <gerald@com3consulting.com>, "comati@Beacon.ca.gov" <comati@Beacon.ca.gov>, timbflynn@gmail.com, carmen4oxnard@gmail.com, bryan.macdonald@ci.oxnard.ca.us, dorina.padilla@ci.oxnard.ca.us, cheitmann@ci.ventura.ca.us, nandrews@ci.ventura.ca.us, jmonahan@ci.ventura.ca.us, cmorehouse@ci.ventura.ca.us, cweir@ci.ventura.ca.us
NOTICE OF INTENT TO LITIGATE

2 Attachments, 2.8 MB

To: BEACON, Santa Barbara County Board of Supervisors, Ventura County Board of Supervisors, Santa Barbara City Council, Ventura City Council, and Oxnard City Council

1. Save The Plastic Bag Coalition (STPB) submitted objections to the BEACON Draft and Final EIRs on the proposed carryout bag ordinance. The attached objections document was one of three objections documents that we submitted to BEACON. It contains a summary of our objections at pages 2-5. It is a quick read. I can provide the other two documents to you upon request.
2. After we advised BEACON that we would litigate, BEACON declined to certify the EIR. It merely "approved" it. BEACON stated that it would leave it to each board of supervisors and city council to certify it.
3. The BEACON Final EIR does not comply with CEQA. We object to certification of the Final EIR. We also object to approval of any carryout bag ordinance based on it.
4. We told BEACON that we would like to work with BEACON staff and Rincon Consultants (who prepared the EIR) on making corrections to the EIR to comply with CEQA. We suggested that if BEACON did not want to meet with us privately, a public meeting could be held for this purpose. However, our invitation was ignored. We simply want to see an honest EIR. We do not think that this is an unreasonable

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expectation.

5. On July 10, 2013, we filed a Petition for Writ of Mandate against the City of Los Angeles in the Los Angeles Superior Court as its EIR is defective for many of the same reasons as the BEACON EIR. A copy of the filed Superior Court petition is attached. We are asking the court for decertification of the EIR, invalidation of the carryout bag ordinance, and recirculation of a draft EIR.

6. We will file a petition for writ of mandate in the Santa Barbara or Ventura County Superior Courts against any county or city that adopts a carryout bag ordinance based on the BEACON Final EIR. As in the City of Los Angeles case, we will be asking for decertification of the EIR, invalidation of any ordinance based on it, and recirculation of a draft EIR.

7. I strongly urge the BEACON staff and any interested county or city staff to meet with us to try to avoid litigation. Let us work together to achieve a good EIR that complies with CEQA and informs rather than misinforms decision-makers and the public. I believe that the issues can be easily and quickly resolved.

8. No objections are waived. All rights are reserved.

Regards,

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
11693 San Vicente Blvd. #150
Los Angeles, CA 90049
Phone: (310) 266-6662
Fax: (310) 694-9067
Website: www.savetheplasticbag.com
E-mail: savetheplasticbag@earthlink.net

WATCH OUR SIX-MINUTE VIDEO "ARE YOU BEING TOLD THE TRUTH ABOUT PLASTIC BAGS?" AT WWW.PLASTICBAGMOVIE.COM

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EXHIBIT D

000073



City of Santa Barbara California

NOTICE OF PLANNING COMMISSION HEARING AND NOTICE OF DOCUMENT AVAILABILITY PROPOSED SINGLE-USE CARRYOUT BAG ORDINANCE FINAL ENVIRONMENTAL IMPACT REPORT CERTIFICATION

THURSDAY, AUGUST 8, 2013, 1:00 P.M.
CITY HALL, COUNCIL CHAMBERS (2ND FLOOR)
735 ANACAPA STREET, SANTA BARBARA.

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Planning Commission Public Hearing: The Planning Commission will receive a staff presentation and conduct a public hearing at the August 8, 2013 hearing on the Final Environmental Impact Report for the proposed Single-Use Carryout Bag Ordinance. The recommended Planning Commission action is to certify the Final Environmental Impact Report for the City of Santa Barbara Single-Use Carryout Bag Ordinance.

Available Documents: The proposed Final Environmental Impact Report is available in the following ways: City web site www.SantaBarbaraCA.gov/EIR, or at the Planning Division at 630 Garden Street from 8:30 a.m. to 4:30 p.m. Monday through Thursday and alternate Fridays. The document is also available for review at the Main Library at 40 E. Anapamu Street.

Project and Environmental Analysis: The proposed ordinance would prohibit stores selling food and pharmacies from providing plastic carryout bags, and would assess a 10-cent charge on recyclable paper bags provided by the stores at the point of sale, with the intent of reducing existing environmental impacts from plastic bag use. The Environmental Impact Report analyzed effects associated with air quality, biological resources, greenhouse gas emissions, hydrology and water quality, water, wastewater, solid waste, and storm water systems, and concluded that no significant environmental effects would result, and no measures to reduce impacts are required.

Public Involvement: The Draft Environmental Impact Report underwent a prior public review and comment process within the larger Santa Barbara and Ventura County area. Public attendance at the Planning Commission public hearing is encouraged. Written comments are welcome and should be submitted prior to the meeting at the Planning Division Office, 630 Garden St; by mail attention to Planning Commission Secretary, P.O. Box 1990, Santa Barbara, CA 93102-1990; or by email at PCSecretary@SantaBarbaraCA.gov.

Subsequent Ordinance Consideration: The City Council would schedule a subsequent public meeting to consider adoption of the proposed City of Santa Barbara Single-Use Carryout Bag Ordinance.

Americans with Disabilities Act: In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in these public hearings, please contact the Planning Division office at (805) 564-5470, ext. 4535. If possible, notification to the Planning Division at least 48 hours prior to the hearing will enable the City to make reasonable arrangements in most cases.

Appeals: If you disagree with the decision of the Planning Commission on certification of the Final EIR, you may appeal the decision to the City Council. The appeal, accompanied by the appropriate filing fee, must be filed in the City Clerk's Office within ten calendar days after the Planning Commission decision. If you challenge the City of Santa Barbara Single-Use Carryout Bag Ordinance approval or environmental document in court, you may be limited to raising only those issues you or someone else raised at the public hearings described in this notice, or in hearing comments or written correspondence submitted during the prior public review period.

Staff Contact: If you have questions please contact Daniel Gullett, Associate Planner at (805) 564-5470 ext. 4550 or DGullett@SantaBarbaraCA.gov.

* **Public Hearing Notes:** On August 1, 2013, the Planning Commission Hearing Agenda and Staff Report be available at 630 Garden Street or online at the main City web site at www.SantaBarbaraCA.gov/P. Hearings can be viewed live on City TV Channel 18, or on your computer via www.SantaBarbaraCA.gov/Government/Video. Hearing rebroadcast schedules can be found at citytv18.com/schedule.htm.



**CITY OF SANTA BARBARA
PLANNING DIVISION
630 GARDEN STREET
SANTA BARBARA, CA 93101**

000075

**AN IMPORTANT NOTICE
CONCERNING YOUR NEIGHBORHOOD**

**Save the Plastic Bag Coalition
Stephen L. Joseph
350 Bay Street, Suite 100-328,
San Francisco, CA 94133**

* **Public Hearing Notes:** On August 1, 2013, the Planning Commission Hearing Agenda and Staff Report will be available at 630 Garden Street or online at the main City web site at www.SantaBarbaraCA.gov/PC. Hearings can be viewed live on City TV Channel 18, or on your computer via www.SantaBarbaraCA.gov/Government/Video. Hearing rebroadcast schedules can be found at citytv18.com/schedule.htm.



CITY OF SANTA BARBARA
PLANNING DIVISION
630 GARDEN STREET
SANTA BARBARA, CA 93101

**AN IMPORTANT NOTICE
CONCERNING YOUR NEIGHBORHOOD**

000076

Save the Plastic Bag Coalition
350 Bay Street, Suite 100-328,
San Francisco, CA 94133

EXHIBIT E

000077

POSTAL ANNEX
300 BAY STREET
SAN FRANCISCO, CA 94103

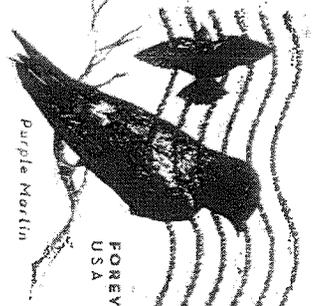
Stephen Joseph
11693 San Vicente Blvd #150
Los Angeles CA 90049

90049510593



SAN FRANCISCO CA 94103

JOS AUG 2013 PM 2 L



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EXHIBIT F

000079



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

REPORT DATE: August 1, 2013
AGENDA DATE: August 8, 2013
SUBJECT: Final EIR for Single-Use Carryout Bag Ordinance
TO: Planning Commission
FROM: Planning Division, (805) 564-5470, extension 4550
 Renee Brooke, AICP, Senior Planner *RB*
 Daniel Gullett, Associate Planner *DPG*

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I. PURPOSE

This is an environmental hearing for the Planning Commission to consider certification of the Final Environmental Impact Report (EIR) for the Single-Use Carryout Bag Ordinance. No action on the ordinance itself will be taken at this hearing. The City Council would schedule a subsequent hearing to consider adoption of the Proposed Ordinance.

II. PROPOSED ORDINANCE

The intent of the proposed Single-Use Carryout Bag Ordinance is to reduce existing environmental impacts related to the use of single-use carryout bags, and to promote a shift toward the use of reusable bags. To this end, the Ordinance would:

- Prohibit stores that sell a line of groceries or stores with a pharmacy from providing plastic carryout bags (not including product or produce bags). Stores could only provide recyclable paper carryout bags or reusable bags.
- Assess a 10-cent charge on recyclable paper bags provided by such stores at the point of sale. Stores may retain all paper bag charges and use the funds to (1) comply with the ordinance; (2) provide recyclable paper bags; (3) provide low or no cost reusable bags to customers who are exempt; and/or, (4) produce and distribute educational materials encouraging the use of reusable bags.
- Require these stores to indicate number of recyclable paper carryout bags and total amount charged on the customer receipt and to report this information, including any educational efforts to promote reusable bags, annually to the City.
- Require these stores to provide, free of charge, either reusable bags or recyclable paper bags or both to customers participating in the California Special Supplemental Food Program for Women, Infants, and Children or in the Supplemental Food Program.

The stores regulated by this ordinance are categorized as follows:

- Tier 1 Stores: Have at least 10,000 square feet of retail space and sell a line of dry grocery, canned goods, or non-food items or have a licensed pharmacy.

- Tier 2 Stores: Comprising drug stores, pharmacies, supermarkets, grocery stores, convenience food stores, including those that have a liquor license, food marts, or other similar retail store that sell a limited line of grocery items which typically includes, but is not limited to, milk, bread, soda, and snack foods.

The ordinance is proposed to become operative on Tier 1 Stores 180 days following the effective date and Tier 2 Stores 365 days following the effective date.

III. BACKGROUND

City Council originally considered development of an ordinance regulating distribution of single-use bags at its March 13, 2012 hearing. At that hearing, Council directed staff to develop an ordinance to promote the shift toward reusable bags with the intent to reduce environmental impacts from single-use plastic bags.

Council also directed staff to work with BEACON, a joint powers authority comprised of several jurisdictions in Santa Barbara and Ventura Counties, for preparation of a model single-use bag ordinance and environmental review of a model ordinance pursuant to the California Environmental Quality Act (CEQA). The objective of this regional coordination was to develop a model single-use bag ordinance and Environmental Impact Report (EIR) that could serve any individual BEACON member jurisdiction in the review and possible adoption of a local single-use bag ordinance.

On April 10 and April 24, 2012, City Environmental Services staff presented the City Council Ordinance Committee with a draft ordinance modeled after an ordinance adopted by Los Angeles County in November 2010. The Ordinance is similar to other ordinances adopted in recent years by several cities, including San Jose, Long Beach, Santa Monica and some other smaller municipalities in California.

On April 24, 2012, the Ordinance Committee made revisions and unanimously forwarded the proposed ordinance to City Council, which referred the ordinance to BEACON for use as the Program EIR project description.

On April 23, 2013, the Ordinance Committee received a presentation from City staff on the status of the EIR. The Ordinance Committee voted unanimously to refer the model ordinance reviewed in the EIR to City Council with no changes for their consideration for adoption.

IV. ENVIRONMENTAL REVIEW

Consistent with California Environmental Quality Act (CEQA) requirements, BEACON issued a Notice of Preparation (NOP) of the EIR for the Single-Use Carryout Bag Ordinance on November 30, 2012 for 30-day agency and public input on the EIR scope of analysis. BEACON also conducted two public scoping meetings during the NOP comment period in City of Santa Barbara (December 12, 2012) and the City of Oxnard (December 19, 2012). BEACON received five letters in response to the NOP.

BEACON released the Draft EIR on the model ordinance for a 45-day public comment period from February 12 - March 28, 2013. A total of twelve comment letters were received. Responses to these comments are included in the Final EIR, which was released in May 2013.

The study area for the FEIR analysis included all jurisdictions located within Santa Barbara and Ventura Counties (except the Cities of Ojai and Carpinteria, which have already adopted single-use bag ordinances). In addition to the project, the Final EIR evaluated five alternatives including: (1) No project; (2) A ban on single-use plastic bags at all retail establishments except restaurants; (3) a Mandatory charge of \$0.25 for paper bags; (4) A ban on both single-use plastic and paper carryout bags; and, (5) a Mandatory charge of \$0.10 for plastic and paper carryout bags.

The Final EIR found that Ordinance effects to the environment would be insignificant without the need for mitigation (Class 3) or beneficial (Class 4) in the areas of air quality and greenhouse gases, biological and marine resources, water quality, solid waste and storm water systems, and aesthetics. The Initial Study had also found all other impacts to be less than significant.

The Final EIR identified Alternative 4 (Ban on both single-use plastic and paper carryout bags) as the environmentally superior alternative, since it would result in the most overall beneficial effects to the environment compared to existing conditions. Because the Proposed Ordinance would not result in any significant impacts, adopting Alternative 4 rather than the Proposed Ordinance would not avoid any significant impacts.

City Staff prepared an addition to the Final EIR (Exhibit A) to recognize the City's role as Lead Agency for the City Ordinance and clarify the environmental effects of the Ordinance within the City of Santa Barbara portion of the EIR regional study area. The information in the Addendum is not considered "significant new information" necessitating EIR recirculation, since it does not involve new significant impacts or increase in the severity of an environmental impact studied in the EIR.

The Planning Commission's role, as defined in the City Guidelines for the Implementation of the California Environmental Quality Act, is to review the Final EIR (including the City addition) to determine if it has been completed in compliance with CEQA and if it reflects the independent judgment of the City. Following EIR certification, City Council would need to review and consider the information in the Final EIR and make required CEQA findings prior to ordinance adoption.

V. RECOMMENDATION AND CEQA FINDINGS

Staff recommends that the Planning Commission make the findings below and certify the proposed Final EIR for the Single-Use Carryout Bag Ordinance.

The Planning Commission certifies that:

1. The proposed Final Environmental Impact Report for the City of Santa Barbara Single-Use Carryout Bag Ordinance, comprised of the Draft Environmental Impact Report, comments on the Draft Environmental Impact Report, responses to comments on the Draft Environmental Impact Report, minor changes to the Draft Environmental Impact Report, and the City of Santa Barbara addition to the Final Environmental Impact Report, was presented to the Planning Commission of the City of Santa Barbara. The Planning Commission reviewed and considered the information contained in the proposed Final Environmental Impact Report, including the City addition, public comment, and responses to comments, and determined that the document constitutes a

complete, accurate, and good faith effort toward full disclosure of the project's impacts and is an adequate environmental analysis of the project.

2. The proposed Final Environmental Impact Report for the Single-Use Carryout Bag Ordinance has been completed in compliance with the California Environmental Quality Act and Guidelines.
3. The proposed Final Environmental Impact Report for the Single-Use Carryout Bag Ordinance reflects the City of Santa Barbara Planning Commission's independent judgment and analysis.
4. The location and custodian of documents and materials that constitute the record of proceedings upon which this decision is based is the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, CA.
5. The Final Environmental Impact Report for the Single-Use Carryout Bag Ordinance will be presented to the City Council before Council decides whether to adopt the Single-Use Carryout Bag Ordinance.

Exhibits:

A. City of Santa Barbara Addition to the Final EIR

The full Final EIR has been provided to members of the Planning Commission. The document is available for review by the public at the Community Development Department at 630 Garden Street, the Main Library 40 E. Anapamu Street, and online at: www.SantaBarbaraCA.gov/EIR

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**CITY OF SANTA BARBARA ADDITION TO
FINAL ENVIRONMENTAL IMPACT REPORT
(SCH#2012111093)**

**SINGLE USE CARRYOUT BAG ORDINANCE
August 1, 2013**

INTRODUCTION

This document is a City-prepared addition to the Final Environmental Impact Report (EIR) for the Single-Use Carryout Bag Ordinance ("Study Area Ordinance") that was prepared for jurisdictions within Santa Barbara and Ventura counties by the Beach Erosion Authority for Clean Ocean and Nourishment (BEACON) in May 2013 (SCH #2012111093).

The City of Santa Barbara is the Lead Agency and proposes an ordinance to ban plastic carryout bags that is consistent with the ordinance analyzed in the Final EIR. This City addition to the Final EIR clarifies environmental effects associated with adoption of the ordinance within the City of Santa Barbara. The City of Santa Barbara Ordinance would prohibit the free distribution of single-use carryout paper and plastic bags and require certain retail establishments to charge customers ten cents (\$0.10) for single-use recyclable paper bags at the point of sale.

The Final EIR evaluation concludes that no substantial adverse environmental effects would result from the Ordinance and no mitigation is required. Beneficial environmental effects were identified in the areas of biological and marine resources, water quality and storm water systems, solid waste, and visual aesthetics. The new information contained in this City addition to the Final EIR involves only minor modifications to the Final EIR to clarify impacts within the City of Santa Barbara jurisdiction. There have been no substantial changes in existing environmental conditions since preparation of the Final EIR (SCH#2012111093).

The EIR was circulated for public review from February 12, 2013 to March 28, 2013. Written responses to comment are provided in the Final EIR. A lead agency recirculates an EIR for comment prior to its certification only when significant new information involving significant impacts is added to the Final EIR (Section 15088.5 of the California Environmental Quality Act (CEQA) Guidelines). New information is not "significant" unless the EIR is changed in such a way that that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate such an effect. Recirculation of

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the EIR is not necessary for this City addition to the Final EIR since the new information contained in this addition merely clarifies and makes insignificant modifications to the EIR. The opportunity for public comment is provided prior to and at the City Planning Commission hearing on Final EIR certification.

PROJECT DESCRIPTION

The proposed City of Santa Barbara Single-Use Carryout Bag Ordinance (“City Ordinance”) would prohibit the free distribution of plastic and paper carryout bags and impose a minimum ten cent charge on recyclable paper carryout bags at regulated stores. Reusable bags could be sold or given out by a retailer without charge. The stores that would be affected are located within the City limits and include grocery stores, pharmacies, convenience stores, and other similar retail stores which sell a limited line of grocery items. Restaurants and fast food providers would be exempt from the City Ordinance.

Consistent with the EIR analysis with a ban on single-use plastic carryout bags and a minimum charge of ten cents for recycled paper bags, it is assumed that 65% of plastic bag use would be switched to reusable bags (each assumed to be re-used 52 times), and 30% would switch to recycled paper bags, and 5% of plastic bags would remain to account for exempt retailers. An estimated 47,302,542 plastic bags are currently used annually within the City of Santa Barbara. With the City Ordinance, as shown in Table 1, it is estimated that total single-use carryout bag usage would be reduced to approximately 16,555,890 bags per year.

Table 1: Existing and Proposed Carryout Bag Use

Area	Existing Total Plastic Bags Used Annually	Proposed Reusable Bags (65% Switch to Reusable) ¹	Proposed Paper Bags (30% switch to paper) ¹	Proposed Plastic Bags (5% Remain) ²	Proposed Total Carryout Bags Used Annually
BEACON Study Area	658,241,406	8,228,018	197,472,422	32,912,070	238,612,510
City of Santa Barbara	47,302,542	591,282	14,190,763	2,365,127	17,147,172

¹ Rates used in the City of San Jose Final EIR, SCH # 2009102095, October 2010.
² Rate used in the City of Sunnyvale Final EIR, SCH # 2011062032, November 2011.
 Source: BEACON Single Use Bag Final EIR, May 2013, Appendix C.

As discussed in Section 6.0 Alternatives, the Final EIR includes an Alternative (Alternative 4) that considers a ban on both single-use plastic and paper bags. Alternative 4 was considered to be “environmentally superior” to the Proposed Study Area Ordinance (with a \$0.10 fee on paper bags), because Alternative 4 is expected to result in the use of fewer recyclable paper bags (and more reusable bags).

Nevertheless, as discussed in Section 6.0 Alternatives of the Final EIR, the Proposed Study Area Ordinance would not have any significant adverse impacts; therefore, adopting an environmentally superior alternative rather than the Proposed Study Area Ordinance would not avoid any significant adverse environmental effects.

The City objectives for the City Ordinance would be the same as the objectives for the Study Area Ordinance as described in the Final EIR:

- Reducing the environmental impacts related to single-use plastic carryout bags, such as impacts to biological resources (including marine environments), water quality, and utilities (solid waste)
- Deterring the use of paper bags by retail customers
- Promoting a shift toward the use of reusable carryout bags by retail customers
- Reducing litter and the associated adverse impacts to storm water systems, aesthetics, and marine and terrestrial environments

ENVIRONMENTAL IMPACTS

This section addresses each of the environmental issues studied in the Final EIR, comparing the effects of the City Ordinance within the City of Santa Barbara with the effects on the larger Study Area evaluated in the Final EIR.

The City Ordinance would not change the level of significance of any of the impacts identified as less than significant or beneficial in the EIR or Initial Study (Appendix A of the Final EIR). Each of those impacts would remain less than significant for the City Ordinance.

Air Quality

The City Ordinance impacts related to air quality would be the same as identified in the Final EIR. The City’s existing and proposed bag use was considered in the Final EIR analysis, which analyzed bag use in unincorporated Santa Barbara and Ventura counties and within 16 municipalities in those two counties. The City Ordinance does not involve any construction activities; therefore there would be no regional or localized construction impacts. Operational impacts include emissions associated with bag manufacture, transportation, and use as well as emissions resulting from increased delivery trips.

Emissions from Manufacture, Transportation and Use

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As described in Section 4.1 of the Final EIR, the City Ordinance is expected to result in an overall decrease in ozone and atmospheric acidification (AA) emissions.

Table 2 shows the estimated daily emission changes that would result if the Counties of Santa Barbara and Ventura and cities in the Study Area (including Santa Barbara) were to implement a plastic bag ban ordinance similar to the City Ordinance. The emissions related to converting from plastic to paper and reusable bags as a result of the City Ordinance are shown in Table 2. Ozone and atmospheric acidification emissions would be expected to decrease in Santa Barbara. Therefore, as determined in the Final EIR, air quality impacts from the manufacture, transportation, and use of carryout bags would be beneficial compared to existing conditions.

Table 2: Estimated Changes in Ozone and Atmospheric Acidification Emissions

Ordinance Jurisdiction	Existing Emissions from Carryout Bags		Change in Emissions from Ordinance	
	Ozone Emissions (kg/year)	AA Emissions (kg/year)	Ozone Emissions (kg/year)	AA Emissions (kg/year)
BEACON Study Area	15,140	713,534	(8,195)	(244,306)
City of Santa Barbara	1,088	51,276	(589)	(17,556)

() Denotes a decrease in emissions compared to existing conditions.
 Source: BEACON Single Use Bag Final EIR, May 2013, Appendix D.

Emissions Resulting From Increased Delivery Trips

Similar to the effects identified area-wide in the EIR, the City Ordinance would be expected to potentially result in incrementally more delivery truck trips to transport paper and reusable carryout bags to affected stores. The EIR identified an overall increase of approximately 1.87 truck trips per day throughout the Study Area. Using the EIR methodology to determine truck trips, the City of Santa Barbara's contribution to this increase would be approximately 0.13 truck trips per day.¹

As shown in Table 3, the increase of truck trips expected area-wide would not result in exceeding any air pollution thresholds of impact significance set by the Santa Barbara County Air Pollution Control District (SBCAPCD) and used by local jurisdictions. The City Ordinance would account for approximately 7% of the increase in the number of truck trips from the larger EIR Study Area, resulting in emissions in reactive organic gases (ROG), nitrogen oxides (NO_x), and particulate matter (PM₁₀) emissions much less than SBCAPCDs thresholds. Therefore, impacts related to mobile emissions from the City Ordinance would be less than significant.

Table 3: Study Area Ordinance-Generated Operational Emissions from Truck Deliveries

Emissions	Emissions (lbs/day)		
	ROG	NO _x	PM ₁₀
BEACON Study Area	0.08	0.41	0.04
Thresholds	25	25	80
Threshold Exceeded?	No	No	No

Source: BEACON Single Use Bag Final EIR, May 2013, Appendix D.

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Biological Resources

The City of Santa Barbara's General Plan identifies Mission, Arroyo Burro, San Roque, and Sycamore creeks as the major creek systems within the City that provide drainage from the mountains and hills and states that these creeks are largely natural in appearance. These creeks contribute substantially to the aesthetic quality of the City, function as important ecological resources, provide connecting linear open space links from the hillsides to the shoreline, and aesthetic enhancement of recreational, residential, and commercial areas.

As identified in the Final EIR for the Study Area Ordinance, the City Ordinance would result in a reduction in the use and disposal of plastic carryout bags and an increase in the use and disposal of recycled paper and reusable bags. As such, the City Ordinance would incrementally reduce the amount of single-use plastic bag litter that could enter the marine and terrestrial environments and affect sensitive species. The City Ordinance would also be anticipated to increase consumer

¹ Existing bag use in the City of Santa Barbara is estimated to be 47,302,542 plastic bags per year. Assuming that 30% of existing plastic bag use would switch to paper (14,190,783 paper bags), 65% would switch to reusable bags (591,282 reusable bags assuming 52 uses a year) and 5% would remain (2,365,127 plastic bags) to account for exempt retailers. Assuming 2,080,000 plastic bags per truck load, 217,665 paper bags per truck load, and 108,862 reusable bags per truck load.

use of recycled paper and reusable carryout bags, which, as discussed in the Final EIR, have not been widely noted to have adverse impacts on biological resources. Although reusable bags may eventually be disposed of as solid waste, they are heavier than plastic carryout bags, can be reused multiple times, and the number of reusable bags that would likely end up as litter and impact biological resources would therefore be lower. In addition, because paper bags are not as resistant to biodegradation, paper bags do not persist in the marine environment for as long as plastic bags. For the reasons stated above, consistent with the findings of the Final EIR, the City Ordinance would result in beneficial effects on sensitive wildlife species and habitats.

Greenhouse Gas Emissions

Carryout bags have the potential to contribute to the generation of greenhouse gas emissions (GHGs) either through emissions associated with the manufacturing process of carryout bags, truck trips delivering carryout bags to retailers or through disposal during landfill degradation. The SBACPCD does not have adopted GHG emissions thresholds or a GHG emissions reduction plan.

The City of Santa Barbara's Climate Action Plan was adopted in September 2012. Past, present, and forecasted future citywide greenhouse gas emissions were analyzed in the Plan and associated Addendum to the 2010 Final Program EIR for the Plan Santa Barbara General Plan Update in comparison to the State and City greenhouse gas emissions targets (year 2020 total emissions at 1990 level; 2020 and 2035 per capita vehicle emissions at 2005 level). The analysis demonstrates that citywide emissions are decreasing. With continued implementation of existing State and City legislative measures, citywide emissions associated with growth under the General Plan would meet and surpass these State and City emissions targets. The City Climate Action Plan constitutes a citywide mitigation program for greenhouse gas emissions in accordance with SB 97. Regardless, consistent with the Final EIR analysis, the City Ordinance is evaluated based on the project-level threshold of 4.6 metric tons CO₂e per service population per year based on the County of Santa Barbara's interim approach for evaluating GHG emissions. Based on existing population and employment data provided by the California Department of Finance, the existing population in the City of Santa Barbara used for this analysis is 89,082.²

Manufacturing, Transportation, Washing and Disposal

As discussed in the Final EIR, the manufacture, transport, and disposal of a single-use paper bag generates 3.3 times more GHG emissions than the manufacture, transport, and disposal of a single-use plastic bag. If only used once, the manufacture, use, and disposal of a reusable carryout bag results in 2.6 times the GHG emissions of a single-use HDPE plastic bag. However, reusable carryout bags are intended to be used multiple times. With reuse of carryout bags, the total carryout bags that would be manufactured, transported, and disposed of would be reduced. Washing and cleaning of reusable bags would use electricity or natural gas and therefore would incrementally increase energy production-related GHG emissions.

The Final EIR estimates that the Study Area Ordinance would contribute indirectly to an overall increase of approximately 10,919 metric tons of CO₂e emissions per year for manufacturing, transportation, washing, and disposal, or 0.0088 metric tons CO₂e per person per year, as shown in Table 4. Thus, the Final EIR determined that the Study Area Ordinance would not exceed

² California Department of Finance, "City/County Population and Housing Estimates" (May 2012)

GHG thresholds and therefore impacts related to a shift toward use of paper and reusable bags would be less than significant. Similarly, for the City Ordinance, the shift from plastic carryout bags to paper and reusable bags could be estimated to increase GHG emissions in the City by approximately 785 metric tons per year as shown in Table 4. As such, the City Ordinance would have a less than significant impact related to GHG emissions, consistent with the findings of the Final EIR.

Table 4: Estimated Increase in GHG Emissions from City Ordinance and Study Area Ordinance

Ordinance Jurisdiction	Total CO ₂ e Emissions (metric tons/year) ¹	Emissions per Capita (metric tons/year)
BEACON Study Area	10,919	0.0088
City of Santa Barbara	785	0.0088

¹ Represents a net change in GHG emissions compared to existing plastic bag use.
 Source: BEACON Single Use Bag Final EIR, May 2013, Appendix D.

Consistency with Applicable GHG Plans and Policies

The City Ordinance would be consistent with the City of Santa Barbara General Plan climate policies, the City Climate Action Plan, the City Climate Action Team strategies, and measures suggested in the Attorney General's Greenhouse Gas Reduction Report as discussed in Tables 4.3-4, 4.3-5 and 4.3-6 of the Final EIR. Therefore, the City Ordinance would be consistent with the objectives of AB 32, SB 97, and SB 375. There would not be significant impacts associated with inconsistency with plans and policies.

Hydrology and Water Quality

Hydrology and water quality impacts would be similar to those identified in the Final EIR. The following discusses the impacts related to drainage and surface water quality that would result from implementation of the City Ordinance.

Drainage

Consistent with the findings of the Final EIR, the City Ordinance would not require construction of new structures or additional storm water infrastructure. Consequently, the capacity of existing storm water drainage would remain unchanged and redirecting storm water flows would be unnecessary. Single-use plastic bags that become litter may enter storm drains from surface water runoff or may be blown directly into local waterways by the wind. By banning plastic carryout bags within the City, the City Ordinance is expected to improve the existing drainage capacity by removing a substantial source of trash that can clog features of the system and reduce its capacity. Therefore, consistent with the findings of the Final EIR, the City Ordinance would not result in significant adverse impacts to hydrology and water quality related to drainage.

Surface Water Quality

As noted in the Final EIR, the manufacturing processes for single-use plastic, single-use paper, and reusable bags use various chemicals and materials. The City Ordinance is estimated to reduce plastic bag use by 95% and increase the use of recycled paper and reusable bags.

With implementation of the City Ordinance, approximately 17.1 million carryout bags (including single-use paper, single-use plastic, and reusable bags) would be manufactured for use in the City annually—a decrease of approximately 65% compared to existing conditions. Consequently, the City Ordinance would reduce the overall impacts to water quality associated with bag manufacturing. Furthermore, manufacturing facilities would be required to adhere to existing Federal, State and local regulations. Therefore, impacts to water quality related to the potential change of processing activities as a result of the City Ordinance would not be significant, which is consistent with the Final EIR analysis.

Utilities and Service Systems

Impacts to utilities and service systems as a result of the City Ordinance would be similar to impacts discussed in the Final EIR. The following summarizes the impacts related to water supply, wastewater collection and treatment, and solid waste for the City Ordinance compared to the findings contained in the BEACON Final EIR.

Water Supply

Carryout bags would indirectly result in water use through the manufacturing process of carryout bags. As discussed in the Final EIR, the conversion from plastic bags to paper carryout bags and reusable carryout bags would result in an increase of water use from the manufacturing process of paper and reusable bags. No manufacturing facilities of carryout bags are known to be located within either the County of Santa Barbara or the County of Ventura. Therefore, carryout bag manufacturing facilities would not use water supplies of either county or the City of Santa Barbara.

In addition to water use from manufacturing carryout bags, the City Ordinance may result in increased water use as reusable bags would be washed. The Final EIR determined that the area-wide water demand from washing reusable bags would increase by 470.5 acre-feet per year (AFY) under the assumption that all new reusable carryout bags would require monthly cleaning in either a washing machine or by rinsing.

The City's portion of the expected 470.5 AFY water demand increase would be 44.2 AFY as a result of the City Ordinance. Total average year water demand in the City of Santa Barbara is estimated to be 14,000 AFY³. The estimated increase of water demand associated with the City Ordinance would represent approximately 0.32% of the total City water demand. This increase would not have significant impacts. Any increase in water supply necessary for paper carryout bag manufacturing would not impact Santa Barbara City or County water supplies. Consistent with the findings in the Final EIR, the City Ordinance would not necessitate new or expanded entitlements for water, and water supply impacts would be less than significant.

Wastewater Generation

As noted above and in the Final EIR, no manufacturing facilities for paper carryout bags appear to be located within the Study Area or City of Santa Barbara. Therefore, any increase in wastewater generation due to paper carryout bag manufacturing would not affect local wastewater treatment providers. The Final EIR assumed that 100% of the water used to wash reusable bags would become wastewater, identifying an increase in wastewater of approximately

³ City of Santa Barbara Long-Term Water Supply Plan, 2011

470.5 acre-feet per year (AFY). This is equivalent to 153,300,948 gallons per year, or approximately 420,002 gallons per day. The City's portion would be 44.2 AFY, which is equivalent to 14,402,633 gallons per year, or approximately 39,433 gallons per day.

The El Estero Wastewater Treatment Plant, which serves the City of Santa Barbara, has a remaining capacity of 3.3 million gallons per day (MGD) and therefore has capacity to treat the potential incremental increase in wastewater resulting from the City Ordinance. The estimated increase of wastewater and impacts related to wastewater generation for the City Ordinance would be less than significant.

Solid Waste

The Final EIR provided two analyses for solid waste impacts, using EPA recycling estimates with two separate data sets: Ecobilan (2004) and Boustead (2007). Using the Ecobilan data, it was determined that a single-use plastic bag would generate 0.0065 kilograms (kg) of solid waste per bag per day, a paper bag would generate 0.0087 kg of waste per bag per day, and a reusable bag (used 52 times) would generate 0.001 kg of waste per bag per day. Using the Boustead data, it was determined that a single-use plastic bag would produce 0.004 kg waste per bag per day, while a paper bag would result in 0.021 kg of waste per bag. The Boustead analysis did not estimate the solid waste from reusable bags. Based on the Ecobilan data, the Final EIR estimated that the Study Area Ordinance would reduce solid waste by 2,596 tons per year. Based on the Boustead data, the Final EIR estimated that the Study Area Ordinance would result in an increase of approximately 1,814 tons of solid waste per year.

As shown in Table 5, the Study Area Ordinance would result in a reduction of approximately 2,596 tons of solid waste per year and the City Ordinance would result in a reduction of 222 tons of solid waste per year using the Ecobilan data. Using the Boustead data, the Study Area Ordinance would result in an increase of approximately 1,814 tons of solid waste per year and the City Ordinance would result in an increase of approximately 155.14 tons of solid waste per year, or 0.43 tons per day. As stated in the Final EIR, the permitted daily maximum throughput of the Tajiguas Sanitary Landfill, which serves the City of Santa Barbara, is 1,500 tons per day. Using the worst case scenario (the Boustead data) the potential increase of 0.43 tons of solid waste per day would represent approximately 0.029% of the daily capacity of the landfill. Thus, existing waste disposal facilities could accommodate estimated increases in solid waste related to the City Ordinance, and impacts related to solid waste would be less than significant.

Table 5: Solid Waste Generation Due to Plastic and Paper Carryout Bags

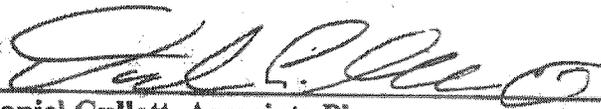
Ordinance Jurisdiction	Solid Waste Generation (tons/year)	
	Ecobilan	Boustead
BEACON Study Area	-2,596.27	1,813.50
City of Santa Barbara	-222.11	155.14

CONCLUSION

Based on analysis in the Final EIR and discussion in the City of Santa Barbara addition to the Final EIR, impacts from the proposed City of Santa Barbara Single-Use Carryout Bag Ordinance related to air quality, biological resources, greenhouse gas emissions, hydrology and water quality, and utilities and service systems were determined to be less than significant (Class 3) impacts or beneficial (Class 4).

Based on the above review of the project, in accordance with State CEQA Guidelines Section 15088.5, recirculation of the Environmental Impact Report prior to certification is not required, because new information and changes in project description, circumstances, impacts and mitigations are not substantial and do not involve new significant impacts or a substantial increase in the severity of previously identified impacts. The Final EIR (SCH#2012111093), including this City of Santa Barbara addition to the Final EIR constitute adequate environmental documentation in compliance with CEQA for the current project.

Prepared by:


Daniel Gullett, Associate Planner

Date: July 24, 13

Reviewed by:


Barbara Shelton, Environmental Analyst

Date: 7-25-13

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EXHIBIT G

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Chair Mike Jordan
Commissioner Bruce Bartlett
Commissioner Sheila Lodge
Commissioner Addison Thompson

Vice Chair Deborah L. Schwartz
Commissioner John Campanella
Commissioner June Pujo

PLANNING COMMISSION
FINISHED AGENDA

CITY COUNCIL CHAMBERS
CITY HALL – 735 ANACAPA STREET
THURSDAY, AUGUST 8, 2013
1:00 P.M.

NOTICES:

- A. THURSDAY, AUGUST 8, 2013 12:00 NOON
LUNCH DE LA GUERRA PLAZA
City Hall, Room 15, Upstairs

The Planning Commission met informally with City Staff to discuss the following:

1. 2846 Verde Vista – *tandem parking*
Case Planner: Stacey Wilson, Associate Transportation Planner
Email: SWilson@SantaBarbaraCA.gov Phone: (805) 564-5572

**** Discussion held. ****

2. An update on status of long-range projects, new legislation, zoning enforcement items, status reports on previously-approved projects, and future agenda items.

**** Update given. ****

- B. Regular meetings of the Planning Commission can be viewed live on City TV-18, or on your computer via www.SantaBarbaraCA.gov/Government/Video/ and then clicking City TV-18 Live Broadcast. Meeting rebroadcast schedule can be found at <http://www.citytv18.com/schedule.htm> An archived video copy of this meeting will be viewable, on computers with high speed internet access, the following Tuesday at www.santabarbaraca.gov and then clicking *Online Meetings*.

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- B. The scope of a project may be modified under further review. If you have any questions, wish to review the plans, or wish to be placed on a mailing list for future agendas for an item, please contact the Case Planer as listed in the project description. Our office hours are 8:30 a.m. to 4:30 p.m., Monday through Thursday, and every other Friday. Please check our website under City Calendar to verify closure dates.
- C. **AGENDAS, MINUTES and REPORTS:** Copies of all documents relating to agenda items are available for review at 630 Garden St. and agendas and reports are posted online at www.SantaBarbaraCA.gov/pc. Please note that online Staff Reports may not include some exhibits. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Community Development Department located at 630 Garden St., during normal business hours.

I. ROLL CALL

**** Roll Call taken.
All Commissioners present.****

II. PRELIMINARY MATTERS:

- A. Action on the review and consideration of the following Draft Minutes and Resolutions listed in this Agenda.

- 1. Draft Minutes of July 11, 2018

****Approved with corrections.
Lodge/Schwartz Vote: 6/0
Abstain: 1 (Campanella)
Absent: 0****

- 2. Draft Minutes of July 18, 2013

**** Approved with corrections.
Thompson/Schwartz Vote: 4/0
Abstain: 3 (Bartlett, Jordon, Lodge)
Absent: 0****

- B. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items.

**** No Requests were made. ****

- C. Announcements and appeals.

**** Announcements were made. ****

- D. Comments from members of the public pertaining to items not on this agenda.
[Due to time constraints, each person is limited to two (2) minutes.]

**** No one wished to speak. ****

III. DISCUSSION ITEM:

ACTUAL TIME: 1:21 P.M.

AIRPORT MASTER PLAN STATUS UPDATE

The Planning Commission will receive a status update on the ongoing development of the Santa Barbara Airport Master Plan. The Airport Master Plan will provide a framework for development to meet aviation demand for the next 10-15 years. Facility needs for safety, general aviation, and vehicle and aircraft parking are primary considerations for the Airport Master Plan Concept.

The purpose of this discussion item is to provide an update to Planning Commission and receive comments. Airport Staff and consultants will be preparing a Draft Airport Master Plan and an initial study pursuant to the California Environmental Quality Act (CEQA) following similar presentations before City Council and the City of Goleta in September.

Case Planner: Andrew Bermond, AICP, Project Planner
Email: ABermond@SantaBarbaraCA.gov

Phone: (805) 602-6032

**** Update given. ****

IV. ENVIRONMENTAL HEARING:

ACTUAL TIME: 2:47 P.M.

PROPOSED SINGLE-USE CARRYOUT BAG ORDINANCE FINAL ENVIRONMENTAL IMPACT REPORT CERTIFICATION

The proposed ordinance would prohibit stores selling food and pharmacies from providing plastic carryout bags, and would assess a 10-cent charge on recyclable paper bags provided by the stores at the point of sale, with the intent of reducing existing environmental impacts from plastic bag use. The Environmental Impact Report analyzed effects associated with air quality, biological resources, greenhouse gas emissions, hydrology and water quality, water, wastewater, solid waste, and storm water systems, and concluded that no significant environmental effects would result, and no measures to reduce impacts are required.

The Planning Commission will receive a staff presentation, conduct a public hearing, and consider certification of the Final Environmental Impact Report for the proposed Single-Use Carryout Bag Ordinance.

Case Planner: Daniel Gullett, Associate Planner
Email: DGullett@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4550

000096

**** Certified the Environmental Impact Report.
Pujó/Lodge Vote: 6/1 (Thompson)
Abstain: 0
Absent: 0
Resolution No. 011-13. ****

V. ADMINISTRATIVE AGENDA:

ACTUAL TIME: 4:18 P.M.

A. Committee and Liaison Reports.

1. Staff Hearing Officer Liaison Report

**** Report given. ****

2. Other Committee and Liaison Reports

**** Reports given. ****

VI. ADJOURNMENT:

**** Meeting adjourned at 4:23 P.M. ****

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EXHIBIT H

000098

Anthony van Leeuwen <vanleeuwenaw@roadrunner.com>
To: Stephen L. Joseph <savetheplasticbag@earthlink.net>
FW: Single-Use Carryout Bag Ordinance EIR

August 13, 2013 1:07 PM

fyi

From: Anthony van Leeuwen [mailto:vanleeuwenaw@roadrunner.com]
Sent: Tuesday, August 13, 2013 1:02 PM
To: 'dGullett@SantaBarbaraCA.gov'; 'pcsecretary@santabarbaraca.gov'
Subject: Single-Use Carryout Bag Ordinance EIR

To: Daniel Gullett and Planning Commission Secretary:

I am one of two individuals who objected to the BEACON EIR when BEACON approved the Final EIR for the Single-Use Carryout Bag Ordinance in its May 17, 2013 meeting.

I did not receive notification of the Planning Commission meeting either by Email or by regular mail via the U.S. Postal Service.

Since the law requires BEACON to inform you of those who objected to the EIR including my contact information, and the fact that you failed to inform me of the meeting deprived me of my right to address the Planning Commission regarding the approval and certification of the BEACON EIR.

Had I known that the Planning Commission was going to certify the BEACON Final EIR for the Single-Use Carryout bag ordinance, I would have attended and voiced my objections.

Again, your failure to notify me deprived me of my legal rights.

Respectfully,

Anthony van Leeuwen
Ventura, California
vanleeuwenaw@roadrunner.com
<http://fighttheplasticbagban.com>
<https://www.facebook.com/fighttheplasticbagban>

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EXHIBIT I

000100

"Anthony van Leeuwen" <vanleeuwenaw@roadrunner.com>
To: Stephen L. Joseph <savetheplasticbag@earthlink.net>
RE: BEACON EIR

August 15, 2013 11:44 AM

Using Google on the internet, I got it the same day I sent it to you. 11 August 2013.

From: Stephen L. Joseph [mailto:savetheplasticbag@earthlink.net]
Sent: Thursday, August 15, 2013 10:55 AM
To: Anthony van Leeuwen
Subject: Fwd: BEACON EIR

How and when did you get this document?

Regards,

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
Phone: (310) 266-6662

NOTE: This e-mail and any attachments are confidential and privileged.

Begin forwarded message:

From: "Anthony van Leeuwen" <vanleeuwenaw@roadrunner.com>
Subject: RE: BEACON EIR
Date: August 11, 2013 3:30:08 PM PDT
To: "Stephen L. Joseph" <savetheplasticbag@earthlink.net>

Here is another file

From: Anthony van Leeuwen [mailto:vanleeuwenaw@roadrunner.com]
Sent: Sunday, August 11, 2013 3:27 PM
To: Stephen L. Joseph
Subject: BEACON EIR

Stephen,

Don't know if you have seen this addition to the EIR that Santa Barbara has made.

v/r

Anthony van Leeuwen
Ventura, California
vanleeuwenaw@roadrunner.com
<http://fighttheplasticbagban.com>

000101

<https://www.facebook.com/fighttheplasticbagban>

000102

EXHIBIT J

000103

Stephen L. Joseph <savetheplasticbag@earthlink.net>

August 13, 2013 10:51 AM

To: dGullett@SantaBarbaraCA.gov,

pcsecretary@santabarbaraca.gov

Single-Use Carryout Bag Ordinance EIR



4 Attachments, 2.8 MB

Mr. Gullett:

I received the Notice of Planning Commission Hearing and Document Availability yesterday (August 12), although it may have been delivered to my mailbox on August 9. It was sent to a previous San Francisco address that I never used in any of my correspondence with BEACON. It was forwarded to my correct address in Los Angeles by mail sent from San Francisco on August 5.

My former San Francisco address was discontinued on January 31, 2013 when I moved to Los Angeles. In order to ensure that my new address would be used for all notices regarding the EIR, I sent an e-mail to Rincon Consultants as they were sending out all notices. Rincon confirmed in the attached e-mail that all notices would be sent to my Los Angeles address.

I have always used the Los Angeles address with BEACON, as you can see from the attachments. I never used my old San Francisco address. Further, I sent the attached e-mail to the City of Santa Barbara on July 11, 2013 with my new Los Angeles address.

Save The Plastic Bag Coalition (STPB) objects to the failure to notify me of the hearing at my correct address. STPB and I had no idea that a hearing was being held on August 8. If I had known about the hearing, I would definitely have attended and made public comments.

STPB requests and demands that all future notices regarding the Single-Use Carryout Bag Ordinance EIR sent by the City of Santa Barbara, and any agency thereof including the Planning Commission, be sent to the Los Angeles address below and via e-mail to savetheplasticbag@earthlink.net.

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Save The Plastic Bag Coalition reasserts all of the objections and demand for recirculation submitted to BEACON and hereby resubmits them to the City of Santa Barbara Planning Commission. (The March 25, 2013 objections will be sent to you in a separate e-mail as an initial attempt to send it with this e-mail was rejected by your server as the combined attachments were too large.) The supporting documents

referenced in the objections were submitted to BEACON and are part of the administrative record.

The city prepared addition to the EIR does not make any changes that are responsive to STPB's objections.

All rights are reserved. No objections or demands are waived.

Please forward this e-mail to all members of the Planning Commission.

Please confirm receipt of this e-mail.

Regards,

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
11693 San Vicente Blvd. #150
Los Angeles, CA 90049
Phone: (310) 266-6662
Fax: (310) 694-9067
Website: www.savetheplasticbag.com
E-mail: savetheplasticbag@earthlink.net



[E-mail re change of address.pdf \(37 KB\)](#)



[E-mail notice of intent to litigate.pdf \(563 KB\)](#)



[STPB supplement to objections to BEACON DEIR.pdf \(281 KB\)](#)



[STPB objections to BEACON Revised Final EIR - corrected.pdf \(1.9 MB\)](#)

000105

Stephen L. Joseph <savetheplasticbag@earthlink.net>
To: dGullett@SantaBarbaraCA.gov,
pcsecretary@santabarbaraca.gov
Single-Use Carryout Bag Ordinance EIR

August 13, 2013 10:51 AM



1 Attachment, 6.1 MB

Mr. Gullett:

Our March 25, 2013 objections are attached.

Regards,

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
11693 San Vicente Blvd. #150
Los Angeles, CA 90049
Phone: (310) 266-6662
Fax: (310) 694-9067
Website: www.savetheplasticbag.com
E-mail: savetheplasticbag@earthlink.net



[STPB objections to BEACON DEIR.pdf \(6.1 MB\)](#)

000106

Stephen L. Joseph <savetheplasticbag@earthlink.net>
To: dGullett@SantaBarbaraCA.gov,
pcsecretary@santabarbaraca.gov
Single-Use Carryout Bag Ordinance EIR

August 13, 2013 11:07 AM



To: Daniel Gullett and Planning Commission Secretary:

I understand that the Planning Commission certified the EIR at its August 8, 2013 meeting. Save The Plastic Bag Coalition will appeal the decision to the City Council. Please advise the procedure and provide the form for filing an appeal. Thank you.

All rights are reserved. STPB's objections that proper notice of the hearing was not provided to STPB is not waived.

Regards,

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
11693 San Vicente Blvd. #150
Los Angeles, CA 90049
Phone: (310) 266-6662
Fax: (310) 694-9067
Website: www.savetheplasticbag.com
E-mail: savetheplasticbag@earthlink.net

000107

Stephen L. Joseph <savetheplasticbag@earthlink.net>
To: dGullett@SantaBarbaraCA.gov,
pcsecretary@santabarbaraca.gov
Single-Use Carryout Bag Ordinance EIR

August 13, 2013 12:12 PM



To: Daniel Gullett and Planning Commission Secretary:

In our March 25, 2013 objections, we stated:

"Pursuant to CEQA including but not limited to CEQA Guidelines §15072(b), I request that you send me, by e-mail and regular mail to the address on the letterhead of this document, any and all responses or findings regarding these objections and all notices regarding the proposed ordinance."

That address is the Los Angeles address below.

I did not receive any e-mail notification.

All rights are reserved.

Regards,

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
11693 San Vicente Blvd. #150
Los Angeles, CA 90049
Phone: (310) 266-6662
Fax: (310) 694-9067
Website: www.savetheplasticbag.com
E-mail: savetheplasticbag@earthlink.net

000108

Stephen L. Joseph <savetheplasticbag@earthlink.net> August 13, 2013 12:48 PM
To: dGullett@SantaBarbaraCA.gov,
pcsecretary@santabarbaraca.gov
Single-Use Carryout Bag Ordinance EIR



1 Attachment, 53 KB

To: Daniel Gullett and Planning Commission Secretary:

The attachment provides you with copies of the notices sent to the wrong address and the envelope in which I received the notice from San Francisco. I did not receive the notice prior to the August 8 hearing.

The attachment is provided for the administrative record.

Regards,

Stephen L. Joseph, Counsel
SAVE THE PLASTIC BAG COALITION
11693 San Vicente Blvd. #150
Los Angeles, CA 90049
Phone: (310) 266-6662
Fax: (310) 694-9067
Website: www.savetheplasticbag.com
E-mail: savetheplasticbag@earthlink.net



[City of Santa Barbara defective notice documents.pdf \(53 KB\)](#)

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EXHIBIT K

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DECLARATION OF PETER M. GRANDE

I, Peter M. Grande, declare as follows:

1. I know all of the facts herein of my own personal knowledge, and if called upon as a witness, I would and could competently testify thereto under oath.
2. I make this declaration in support of Save The Plastic Bag's ("STPB") objections to the City of Los Angeles Draft Environmental Impact Report ("DEIR") on a proposed carryout bag ordinance.
3. Save The Plastic Bag Coalition was formed on June 3, 2008.
4. STPB is an unincorporated association.
5. I was Chairman of STPB from the time of its formation until May 2012.
6. I have been a member of STPB Steering Committee at all times since its formation.
7. Plaintiff's members include companies that manufacture, market, and supply plastic carryout bags to stores, restaurants, and other food facilities, including in the City of Los Angeles.
8. From 2006 to 2007, I was the Chairman of the California Film Extruders and Converters Association ("CFECA"). CFECA, which has been renamed the Western Plastics Association, is the leading trade association representing California and Western U.S. based manufacturers of plastic film products, including plastic carryout bags.
9. I am the Chief Executive Officer (CEO) of Grand Packaging, Inc., a California corporation in good standing, which does business (and is hereinafter referred to) as "Command Packaging."
10. I have been the CEO of Command Packaging since its formation on May 30, 1989.
11. Command Packaging is and has been a member of STPB and STPB's Steering Committee since June 3, 2008.
12. Command Packaging manufactures Low Density Reusable Bags ("LDPE") and

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High Density Reusable Bags ("HDPE") at its manufacturing facility in Los Angeles.

13. LDPE and HDPE reusable bags are plastic bags.
14. Plastic bags have the best life cycle environmental footprint of any type of carryout bags.
15. As an LDPE and HDPE reusable bag is a plastic bag, LDPE and HDPE reusable bags have the best life cycle environmental footprint of any type of reusable bag.
16. Other types of reusable bags include nonwoven polypropylene ("PP"), canvas, cloth, nylon, jute, and reusable bags made from recycled plastic beverage containers (polyethylene terephthalate or "PET").
17. I have personally been engaged in marketing LDPE and HDPE reusable bags throughout California, particularly in Los Angeles County and the City of Los Angeles, since 2010.
18. I have contacted and visited at least a hundred supermarkets, retail stores, convenience stores, and foodmarts in Los Angeles County, including in the City of Los Angeles. I speak with buyers for those stores to try to persuade them to purchase Command's LDPE or HDPE reusable bags.
19. I am aware of the kinds of reusable bags that such supermarkets and other stores carry. I do not believe that anyone can state precisely what percentage of reusable bags in Los Angeles County or the City of Los Angeles are LDPE or HDPE reusable bags.
20. Based on my observations when visiting all retail stores, including but not limited to supermarkets, in Los Angeles County in areas where plastic carryout bags have been banned, and speaking with buyers for those stores, I believe and estimate that LDPE and HDPE reusable bags together represent no more than 1% of all bags provided by such stores to their customers at this time.
21. Based on my observations when visiting supermarkets in Los Angeles County

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in areas where plastic carryout bags have been banned, and speaking with buyers for those supermarkets, I believe and estimate that LDPE and HDPE reusable bags together represent no more than 5% of all bags provided by such supermarkets to their customers at this time.

22. I am only aware of a small number of supermarkets in Los Angeles County that display LDPE or HDPE reusable bags near the checkout. I am not aware of any supermarket that displays LDPE or HDPE reusable bags at the checkout.

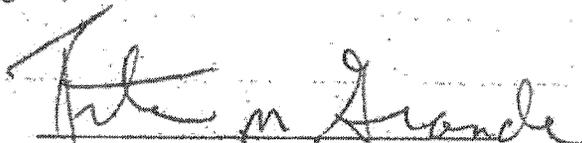
23. The DEIR states: "Nonetheless, because LDPE reusable bags are one of the most common types of reusable bags and are of similar durability and weight (approximately 50 to 200 grams) as other types of reusable bags, this analysis utilizes the best available information regarding specific properties on a per bag basis to disclose environmental impacts associated with the proposed ordinance. However, the emissions from all types of reusable bags are lower than single-use plastic and paper carryout bags because reusable bags are used multiple times. Thus, the air pollutant emissions from the production and transportation of these bags are expected to be comparable to the LDPE bag or lower." This statement is not true.

24. LDPE reusable bags are not representative of reusable bags in the Los Angeles County supermarkets and other stores. They are uncommon, not common. Non-LDPE reusable bags may be of similar durability and weight as other non-LDPE reusable bags, but they are made of totally different material. LDPE is far more energy efficient, far less resource intensive, and results in far less greenhouse gas emissions over the life cycle than non-LDPE reusable bags.

I declare under penalty of perjury under the laws of the State of California that I have read the foregoing, that the foregoing is true and correct, and that I would be competent to so testify.

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Executed on March 6, 2013 at Los Angeles, California.


PETER M. GRANDE

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