

Mt SAC Taxpayers Litigation
01/22/2016

Bill and Mike,

Attached is the judge's tentative ruling. I've highlighted in yellow the relevant portions related to the ruling on the Motion for Preliminary Injunction, which starts at page 9 and goes through page 15. (The other markings are mine and should be disregarded).

I will provide a more detailed analysis of the tentative ruling, but for now and for purposes of Jill Dolan drafting a press release, the key point to be made is that Judge Chalfant denied the motion and expressly found that the Taxpayers did not present any admissible evidence of environmental harm. It is worth noting that Mr. Majors' declaration and exhibits submitted in support of the Motion for Preliminary Injunction are essentially the same materials he submitted at prior Board meetings. This makes clear that the Board properly rejected Mr. Majors' submissions as evidence of environmental impacts.

The take away from Judge Chalfant's finding of no environmental harm is the Taxpayers (and City of Walnut) will need to invest the money needed to obtain expert witness declarations to show environmental harm and the District's failure to comply with CEQA.

While Judge Chalfant has for now rejected our reverse validation and passive validation arguments, I believe these arguments have merit. Judge Chalfant stated at the hearing that he has a strong preference for resolving claims at trial rather than by motion for judgment on the pleadings. One potential middle ground I see is a motion for summary judgment or summary adjudication of issues.

The next case management conference is 2/11/16.

It might make sense for us to have a conference call next week as your schedule permits to discuss strategy and next steps.

Sean B. Absher
<http://www.sycr.com/>
Stradling Yocca Carlson & Rauth, P.C.